PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
DECEMBER 11, 2003

Present: **Mayor Dana Williams, Council members Peg Bodell, Kay Calvert, Candace Erickson, Jim Hier and Fred Jones**

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Lloyd Evans, Chief of Police; Alison Butz, Special Events and Facilities Manager; Michelle Barrus, Special Events and Facilities Coordinator; Lori Collett, Finance Manager; Myles Rademan, Public Affairs Director; Jerry Gibbs, Public Works Director, Eric DeHaan, City Engineer; Craig Sanchez, Golf Course Manager

1. Council questions and comments

Peg Bodell commented that the town looked very festive and thanked Maria Barndt for her hard work.

Fred Jones reported that the Olympic Legacy Entryway Task Force had selected three of the thirty-three applications submitted and requested more detailed information to presented on January 30, 2004. He noted there were some terrific pieces that might work elsewhere in town.

Mayor Williams noted that the Christmas in the Park activity had a large turnout and thanked Craig Sanchez for his participation.

2. Spatafore customer service survey presentation

The Spatafore presentation was delayed until later in the meeting.

Review of regular meeting:

Police appeals committee

Chief Lloyd Evans explained that Staff had presented the Police Appeals Committee policies and procedures document to Council on November 6, 2003. At Council's direction, they revised areas of the plan regarding methods of reporting and to whom, term limits, emergency meetings, publicizing the process and the development of a hot line. The name of the committee was amended to reflect its function as an appeals body, and a resolution has been prepared to ratify the formation of the committee. He requested discussion and input from Council.

Kay Calvert questioned the change from board to committee and Peg Bodell asked whether it was an advisory body or an appeal body. Chief Evans responded that they had called it a committee from inception, and, based on Council's discussion on November 6th, the function of the committee is to consider appeals.

Manager Bakaly felt the key change was the substitution of *appeal* for *advisory.* The committee would provide an appeal outlet for someone who disagreed with the Chief's disposition of a complaint, through a formal written process, as opposed to being an advisory or, oversight, board of the police department

Ms. Calvert felt the appointment of the chairperson by the City Manager was not consistent with guidelines that have been established for the City's boards. Manager Bakaly concurred that it would be inconsistent with other Boards, but the Staff has recommended that this be a committee.

City Attorney Harrington explained the distinction that committee members are volunteers and board members are employees. Boards are created by ordinance in the form of government section of the Municipal Code, and committees are created by resolution.

Ms. Bodell suggested using "review" rather than "appeals". She questioned the appointment of two members by the City Manager, and questioned why it would be called a committee, rather than a board or commission, if they were charged with reviewing City standards, laws and codes.

Attorney Harrington explained they wanted to insure a degree of independence; and Boards and Commissions are officials for the City. Ms. Bodell questioned whether he was saying this body should not be official. Mr. Harrington explained there was a difference of purpose of their standing in terms of whether they are volunteers or officials for purposes of government immunity, and we prefer to them to be volunteers. Ms. Bodell and Ms. Calvert believed it should be a commission.

Ms. Calvert requested clarification of how something would be put forward to the committee. Manager Bakaly explained that someone would file a formal written complaint regarding a police action; the chief and department would conduct an investigation and determine a disposition of the complaint. If the person disagreed with that disposition, they would file a written complaint and initiate a review through any member of the committee, by calling any member, or by calling a hot line. Once they initiate a complaint, the committee will review it.

Ms. Calvert asked why the Manager would appoint the chairperson, who would be an internal person. Manager Bakaly explained his motivation was to balance a way for the public to be involved with, but not necessarily manage, the police department. Because there has never been an appeals board, they are trying to clearly establish its role and purpose. Citizen involvement in hearing and listening the appeals is important but ultimately the Chief should be accountable and responsible for managing the police department and Council oversees that through the City Manager.

Ms. Calvert felt it was clear what the committee was being asked to do and she felt the group would want to elect its own chair. Manager Bakaly stated it was a recommendation; they wanted to allocate resources properly and address citizen concerns as needed, but yet balance resources.

Ms. Bodell asked whether a citizen had to call the Chair or the Chief to schedule an emergency meeting. Chief Evans referred to the written request for review and explained there would be a form, with check-off boxes, so an individual who is leaving town or has an immediate need, can start the process. He stated they may call a meeting if circumstances exist in which the complainant will be leaving the City without return, or would be unavailable for an extended period of time.

Ms. Bodell felt the group should appoint the chair, rather than the City Manager, to remove any accusation that the City wouldn't let them proceed with an appeal.

Manager Bakaly stressed that the goal was to balance a fair review by the public with the appropriate dedication of resources and if an emergency meeting is needed that will take a certain degree of staff time. An emergency review would occur in a matter of days, rather than months.

Ms. Bodell argued that someone leaving town was not really an emergency. If there really is an emergency and someone needs to have an appeal heard, if their complaint is true and they need representation, we have probably screwed up on staff and regardless of resources it needs to happen. She emphasized that just because someone asks for it, she did not agree that it needed to happen, but there needed to be two people coming together with a subjective decision and that is why the chair should be appointed by the body of five, not the City Manager.

Ms. Bodell stated that removal from office should be changed to read, Mayor *with the Council's* approval. She asked for clarification about Errors and Omissions for volunteer groups. Attorney Harrington stated they were giving advice regarding decisions that had been made, not making decisions.

Fred Jones was not opposed to the City Manager making the appointment of the chair. As to Peg's point, as a practical matter in an emergency, during a holiday period, the chair, as a citizen, may be out of town and it is easier for someone wanting to make an appeal to find somebody in City Hall, than trying to find the Chair.

Staff and Council discussed methods of identifying situations that would characterize an emergency. The policy was written that the only reason was unavailability, but it could be revised to address hardship of circumstances. The Mayor desired a hardship clause so that someone could appeal to the Chief and the chair of the committee on a specific issue. He felt that would provide more customer satisfaction.

Ms. Calvert reiterated she was uncomfortable with the term *committee*, and also with the fact that people who are running the committee are part of the City Government.

Mayor Williams asked the Council to address two specific items: 1) the name; and 2) appointment of the chair. Following a lengthy discussion, Council members agreed to create it as a committee and, for the first year, agreed to allow the City Manager to appoint the chair of the group. They agreed to establish a one-year review of the group and noted it would be easier to change a resolution if they wished to change the policies and procedures document. They wanted language to be added that the Mayor must have Council's consent to remove members from the group. They were emphatic that the body be responsive, but wanted to take it a step at a time. They agreed that committee reappointments would be made in June in order to align them with other groups.

The Council broadened their discussion about emergency meeting language and requested that it address their concerns about customer satisfaction. After discussing the number of potential meetings that may be held, a decision was made to hold meetings monthly as warranted; however, for the first year the emergency meeting clause would be retained.

Spatafore customer service survey presentation
Dave Spatafore, Insight Research, presented results of customer service survey. Council members had received copies of an Executive Summary. He reviewed the three sections of the report: 1) interaction with City and the Staff – ½ of respondents indicated they had contact with the City of member of the Staff within the last year, which showed a sense of ownership with folks who live in Park City, and 83% reported being treated professionally, courteously and fairly; 2) communications - 70% of respondents believed that Park City communications with them are excellent or good. 28% said fair or poor, 40% have looked at City's website and 75% of them say it is excellent or good; and 3) city services – 80% of greater approval ratings received by library, trails, parks, special events, police, recreation programs, golf course and snowplowing.

Return to Review of regular meeting:

Arts policy - Michelle Barrus explained that Staff had prepared a Public Arts Policy to establish the Public Art Advisory Board and requested questions or concerns.

Jim Hier was opposed to the reference of Grand Junctions' program under

Appropriation and Allocation of Funds. Brian Hess of the Arts Council explained it was cited as an example of programs that would be further defined by the board.

Ms. Barrus noted that Fred Jones had expressed a concern about the group's ability to make expenditures without consulting Council. To address that, Staff suggested adding a clause that requires the Public Art Advisory Board to meet with Council in a work session to obtain approval after they have completed the cultural assessment. She asked if Council were comfortable with that amendment.

Fred Jones felt Council might have an opinion to as emphasis of areas of town, or types of art, that played into their broader goals and they should have that discussion with the Arts Board so they don't come back with something that doesn't meet those goals.

There was a detailed conversation about the cultural assessment review and it was explained that the City had contracted with the Arts Council to perform the assessment. The Arts Board would review that assessment and would create a strategic plan that they would present to Council.

Mr. Jones noted the term of the Board was tied to the 2004-2005 budget and questioned whether it was an ongoing board. Peg Bodell explained that the Board would continue to present recommendations to Council on how to fund and continue them into the future. Manager Bakaly suggested they make their term throughout the 2005 budget year and review it at that time. Brian Hess proposed staggering terms so they did not have to create a new board. Jim Hier suggested adding *and subsequent funding* after 2004-2005.

Fred Jones clarified that this addressed permanent art, not performing art.

Teri Orr felt taking this step was long overdue and it put Park City on the map by saying art is important to us as a community. She asked Council to consider performing arts as well as visual arts and asked if equipment for events might be considered.

Water agreement - The item was continued. There was no discussion.

Audit report - Lori Collett, Finance Manager, introduced Mark Stevens, audit partner from Deloitte. Mr. Stevens discussed recent changes in the governmental accounting world, which were reflected in the report.

He stated that Park City is managing things well and is proactive at looking at issues and addressing them. In terms of accounting staff and how you are handling compliance issues, the City has outstanding people who do an excellent job. He reported one minor item regarding B & C Road projects only being advertised for 2 weeks rather than 3.

Council members applauded the changes and felt it would help the budget process go forward.

Watts property - Alison Butz explained that Council would be reviewing a staff report regarding an RFP that went out for the Watts Property, as well as staff's direction on how to proceed.

She explained that Council had received many requests to purchase the Watts property for different types of uses in the years that the City has owned the property. This spring, Council directed Staff to issue an RFP. Five proposals were submitted and a selection committee comprised of a Utah State Historic Society representative, Colin Hilton, Ron Ivie, Charlie Wintzer and Monty Coats, reviewed the proposals and ranked them on specific criteria identified in the RFP. The ranking scores were tallied and averaged (Exhibit A). The proposals (Exhibit B) ranged from residential to restaurant, arts and entertainment venue, law office, to a glass blowing facility as a school or institute. The Committee did award the Glory Hole the highest ranking.

Staff has reviewed the properties that encompass the Watts property: historic residence and National Garage on Park Avenue as well as the residence on Woodside and a smaller garage associated with that. This timed well with the Planning Department's evaluation of all historic and city-owned structures and brought up some questions because this is an important property that anchors Lower Main, and it will be very important in the overall development of Lower Main and Main Street. Whatever the City does with this property should be weighed carefully. In addition, the Planning Department is considering Land Management Code amendments that would allow Master Planned Developments, with multiple structures and multiple uses, in the HRC district and that could benefit the property overall. There may also be discussions regarding in-lieu fees for parking. Some of the proposals that were submitted require a Conditional Use Permit so parking would be an issue that the Planning Commission would review closely.

Staff has a major concern about the stability of the garage. It is a prized property and we want to be able to stabilize it. When one gets into stabilization and total rehabilitation, it is important to know what the end use will be so you are not making improvements that would need to be taken out depending on the use. Staff feels it is very important to maintain the structure and we could begin with shoring and move on from there.

The Staff's ultimate recommendation is to sell the Woodside Home to the Bertinellis. They are the only proposal that requested just the Woodside home. That would give the City some cash to stabilize the garage. She added that if it were removed from the mix, the Glory Hole would still be interested in moving forward with just the Park Avenue properties.

She advised Council they would hear from a number of people regarding their proposals but emphasized they could not leapfrog the successful proposer unless Council determined an error was made in the process. Staff's direction is to offer the Woodside home to the Bertinellis; reject all other proposers and hold onto the property, do some stabilization and then rent it as affordable housing so the home does not sit empty.

Fred Jones asked if the recommendation to sell the house to the Bertinellis was based on an appraised value or some other value. She explained the City did not have a current appraisal of the property, but the Bertinellis proposed to purchase it for $205,000, which is over the City's purchase price in the 1997 appraisal.

Manager Bakaly explained there were several things at hand: the selection process, a policy decision regarding disposition of the property, and negotiations for the sale. He explained that for selection purposes, they want to have people make a proposal and as part of the negotiation, you make that a contingency. The bidder who came in second felt that an appraisal would come in lower then the 1997 appraisal, and that is what they bid. If negotiations failed under the current recommendation, they would need to go out for proposals again.

Mr. Hier did not feel it was appropriate to reject the proposals that the City had received in good faith. He did see the value of revised MPD characteristics in conjunction with the Planning Process. Manager Bakaly felt that if direction was to enter into negotiations, Peter Roberts would want to know where the MPD and LMC were going, but it could be part of the negotiations of the sale as opposed to the selection process.

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
DECEMBER 11, 2003

I ROLL CALL

Mayor Dana Williams called the regular meeting of the Council to order at 6:00 P.M. at the Marsac Municipal Building on Thursday, December 11, 2003. Members in attendance were Mayor Dana Williams and Council Members Peg Bodell, Kay Calvert, Candace Erickson, Jim Hier, and Fred Jones. Staff present were Tom Bakaly, City Manager; Mark Harrington, City Attorney; Michelle Barrus, Alison Butz, Ron Ivie and Jeffrey Schoenbacher

II COMMUNICATIONS FROM COUNCIL AND STAFF

The Mayor introduced each of the new police sergeants: Marty Howard, Annette Ellis, and Mark Schaerrer. He presented them each with their badge, which was pinned on by their spouse.

Chief Lloyd Evans thanked the Mayor, Council and the City Manager for the opportunity to recognize the officers in a public meeting. He was pleased that these individuals were going to be part of the administrative team of the Police Department for the betterment of Park City and its citizens.

III PUBLIC INPUT - (any matter of City business not scheduled on the agenda)

The Mayor invited anyone in the audience to comment on matters of City business not scheduled on the agenda. Hearing none, the public input session was closed.

IV CONSENT AGENDA

Mayor Williams explained that the acceptance of the Hoffman Annexation petition was not the acceptance of an annexation and there would be a public process.

MOTION: Fred Jones moved to APPROVE Consent Agenda Items 1 through 5. Jim Hier seconded. Motion carried unanimously.

1. Resolution adopting policies and procedures to ensure compliance with the Americans with Disabilities Act. See staff report.
2. Resolution adopting senior mobility policies and procedures. See staff report
3. Acceptance of Hoffman annexation petition. See staff report
4. Acceptance of audit report. See staff report
5. Award of purchase of chairs for Santy Auditorium. See staff report.

V PUBLIC HEARINGS

1. Ordinance amending Title 11, Building and Building Regulations, Chapter 15, Park City Landscaping and Maintenance of Soil Cover of the Municipal Code of Park City.

Ron Ivie, Chief Building Official, and Jeffrey Schoenbacher, Environmental Coordinator, explained that Staff requested that the Soils Ordinance be revised to remove a portion of Chatham Crossing and to add portions of Swede Alley, Marsac and Hillside. He stated the Chatham area did not need to be regulated and the addition of areas in Old Town provided a management opportunity for those properties. It also provides a date certain by which the Prospector capping must be finalized, and provides a criminal penalty for those who don't comply with the ordinance.

Jim Hier asked how this fits into the overall mitigation plan. Jeffrey Schoenbacher explained that a part of the Environmental Management System (EMS) was to revise ordinances by streamlining the ordinance area and excluding the areas that are not of concern based on data we have obtained. This amendment fulfils a portion of that system.

Manager Bakaly added that the City has come to an agreement on the EMS Plan and Council approval will be needed once it is finalized with the EPA. That action is anticipated in January or February.

The Mayor opened the public hearing; hearing no comments from the public the hearing was closed.

2. Disposition of Watts property.

Alison Butz explained that Council was being asked to consider responses to an RFP for the Watts properties. Staff received five proposals which were reviewed by a five-member selection committee. The Committee analyzed the proposals based on criteria as stated within the RFP: 1) purchase or lease price for the property; 2) proposed use and compatibility with Park City's economic development goals; 3) proposed use and its compatibility with the surrounding neighborhood; 4) proposed historical rehabilitation of the structures. The evaluations of the selection committee members were totaled and averaged and the Glory Hole, ranked the highest at 78.4, was the successful bidder for the RFP.

Following that process, the Staff conducted further analysis and recommends that Council conduct a public hearing, consider selling the Woodside property to the

Bertinellis, use portion of the proceeds to stabilize the National Garage, reject all other proposals and maintain the property as affordable housing.

Ms. Butz explained there are pending changes to the Land Management Code regarding Master Planned Developments as well as in-lieu parking fees, which may affect these properties. In addition, the Planning Staff will have further time to evaluate City-owned historic structures, impacts to Main Street, as well as proposed CIP projects for the Main Street area. She requested direction from Council as to how they want to dispose of the property, methods of entering into lease or purchase contracts; and, if there are issues regarding the selection process, to define where in the RFP that Staff has erred, so they know how to properly proceed.

Kay Calvert asked if the only thing preventing Council from moving forward immediately was the Land Management Code. Ms. Butz noted the LMC changes would affect the proposals and it would be beneficial to know the outcome. They would also need to obtain a Conditional Use Permit, but Council could move forward with awarding it. She also clarified that if Council approved the sale of the Woodside house, the Glory Hole bid would need to be renegotiated because their bid was based on the total parcel.

Mayor Williams opened public hearing.

Peter Roberts, Director of Glory Hole, explained proposed uses for glass blowing studio and addressed how their proposal meets the City's economic goals.

Mr. Roberts stated it would be a hot glass studio focusing on the drama of art being created. They would be action-oriented and would invite the public in. The Glory Hole itself has two meanings: one is the opening into a glass furnace into which the artist puts their work, and the other, appropriate to Park City, is a vertical shaft of silver ore that is easily mined.

Mr. Roberts stated they would introduce a component of higher education from a prestigious accredited university so they can offer college credits, and excellence will define everything they do. He explained they would be involved in cultural tourism, for example creating antique bottle reproductions of the McPolin Bottling Works. They plan to make the center accessible to Park City community and will create local jobs. Utmost in their design considerations is safety, and they will be environmentally responsible by using state of the art technology, such as scrubbers, filters, etc.

Mr. Roberts outlined his three phase proposal: purchase of the National Garage for the studio; dedication of the 702 Park Avenue residence to an artist in residence program; and finally, in 3 to 5 years, use of the Woodside structure for on-site studio assistants. He proposes to purchase each of the properties for their appraised value.

Mr. Roberts addressed several benefits of their proposal to Park City. They will provide downtown enhancements, enabling the resorts to generate more business. They will be a new, locally owned, independent business with a focus on the heritage element, which will enhance Main Street's vitality and provide increased pedestrian activity in that location.

Mr. Roberts stated Staff had been very open and candid about the whole process; however, he disagreed with their recommendation. The RFP stated a selection panel would review and make a recommendation to Council and there was no mention that Staff would have an independent recommendation. However, he stated they were flexible and they could work together to address any and all concerns. He asked Council to direct Staff to enter into negotiations with Glory Hole for the acquisition and/or lease for all, or part of the Watts property. He emphasized that he was able to raise the capital and was dedicated to this project.

Peter Roberts read into the record letters of support from Leslie Harlow, Robert Stevenson and Jason Sanford.

Michael Kaplan, for the National Garage performing arts center, discussed the needs for, and benefits of, his proposed use. He noted this concept had been well received by local businesses and the performing arts community. He sees the theatre as an economic driver for Lower Main, which is an oft-neglected part of town.

Mr. Kaplan continued that this had been an exceedingly frustrating experience and the process was extremely flawed. It seemed secretive and lacked thoroughness. He felt there were legal implications because the deadline was extended at the last minute. He expressed surprise that he was never asked questions about his bid and was offended that Staff suggested that Council had limited choices on the selections. He believed the committee should have considered the applicants' realistic ability to perform and stated he had financing and rough architectural plans in place and he has agreed to sell the Bertinellis the Woodside house at their bid price.

Rachel and David Bertinelli stated they had lived in the house since August of 1995. They love living in Park City and want to make the house into their home.

John Troylo, Co-owner of Davanzas Pizza, expressed concerns about impacts from whatever decision is made, but supported Michael Kaplan's proposal. They felt it would benefit their particular business and preserve the Bertinelli's home at the same time.

Scott Gilson, neighboring property owner, stated he was not notified of the Request for Proposal. He questioned the lack of current appraisal and expressed concerns about pollution, noise, odors, etc. He also questioned why the RFP was put out prior to the completion of the Land Management Code.

Brian Hess expressed support for the Glory Hole project and felt it would be an enhancement to the community's cultural tourism and economic development. It is a unique project and would be complementary to the neighborhood.

Bill Ligety and Cindy Sharp, owners of property behind garage since 1991, recommended that all proposals be rejected and that Council develop a plan for that area because it is very visible corner, and it is an entryway to Park City. In addition, they addressed existing physical conditions on their property, as well as that corner, which detract from its value. They were prepared to enter into negotiations immediately to purchase the Woodside property in excess of what had been offered. They were concerned that zoning will not protect the quiet enjoyment of their residential property.

Elizabeth Swank supported the Glory Hole for economic and cultural development reasons. She felt it would be world renowned, with people interested in art and education living in the facility.

Liz Peet asked the Council to consider Glory Hole proposal. She felt it would enhance the art scene and bring Park City into the ranks of what is happening in the art world. This would be the only glass studio in the Intermountain West. There is technology available that will dampen sound and they are environmentally safe.

Joe Curtain supported the Glory Hole proposal. He felt it would enrich the cultural aspects of the community and would provide a unique attraction for locals and tourists, young and old. He also voiced support for Peter Roberts from a friend who was unable to attend the meeting.

Mike Sweeney supported the Glory Hole proposal, noting that over the years, Park City has had a number of glory holes, and maybe this would be one more that could help revitalize its economic well being.

Allan Stockbridge, commercial realtor, attorney, and resident in Park City, expressed support for the National Garage Performing Arts Center. He felt it would be compatible with adjoining uses and would be an appropriate use to receive a conditional use permit under the zoning. He stated it would serve as a catalyst to create vitality in the Upper Park Avenue commercial district. He identified numerous arts groups who supported the proposal and stated the Watts garage would be one of a kind as a performing arts center. He felt the process was flawed and recommended the bidding process be reinitiated and it should require a demonstration of capability to perform, and allow final bidders to increase their offers to the highest price possible for the benefit of the City.

Edward Patterson expressed support for Peter Roberts and the Glory Hole project.

Dan Jensen supported Peter Roberts and the Glory Hole project.

Steve Swanson, local designer and former Historic District Commission member, stated Peter Roberts' proposal had an element of pizzazz and an innovate feel to it. He supported the Glory Hole project.

Eric Moser, 12 year resident, supported Peter Roberts as a straightforward, honest person who achieves his goals. He felt the proposal would benefit Park City and the arts community.

Alison Butz read into the record a letter from Colin Matthews and Paula Craver with the Roadmaster Grill. "We are strongly in support of the Staff's recommendation to sell the Woodside residence and postpone action on the National Garage and Park Avenue residence, alternative A. In our response to the RFP, we offered to pay for the three properties whatever an appraisal at current value showed, believing that a current appraisal might yield a lower figure than $920,000 because of the recent decline in value of residential properties along Park Avenue including our own. However, we believe that the location is quite valuable for restaurant purposes, particularly given the recent decision of Lakota's owner to locate elsewhere. The Woodside property is not essential to meet our business goals. We included it in our proposal in the belief that keeping the parcel intact might have the importance to the City related to historic preservation, integrity, or other non-monetary goals. We believe that the City is most likely to maximize its return on the investment in the Watts properties by following Staff's recommendation and alternative A, and soliciting bids on the National Garage and the attached Park Ave property at an appropriate later date. Moreover, with the difference in score between the Glory Hole and Roadmaster Grill, a slim six-tenths of a point, this seems to us a much fairer course of action than the possibility raised in alternative B. We hope this information is helpful to the Council in their deliberation as to the best course of action for Park City to take at this juncture. Thank you for your assistance and for the most extraordinary professionalism of the City Staff in preparation for the RFP and in analyzing the proposers responses. Sincerely Colin and Paula. "

Mayor Williams closed the public hearing. He thanked all those who took the time to come and complemented the calm, non-contentious atmosphere.

VI NEW BUSINESS

1. Ordinance amending Title 11, Building and Building Regulations, Chapter 15, Park City Landscaping and Maintenance of Sol Cover of the Municipal Code of Park City.

MOTION: Peg Bodell moved to APPROVE the Ordinance amending Title 11, Building and Building Regulations, Chapter 15 Park City Landscaping and Maintenance of Soil Cover of the Municipal Code of Park City. Kay Calvert seconded the motion. Unanimously approved.

2. Direction to staff on disposition of Watts property .

Fred Jones opened the discussion and stated any of the proposals would have to prove their viability from a zoning standpoint and there were many issues that had to be addressed. He asked for clarification of the process going forward.

Manager Bakaly explained that they had been through the public RFP process, but not from a planning standpoint. That process would begin with Council giving Staff direction to enter into purchase contract negotiations with Glory Hole as it pertains to an appraisal price. If that were Council's direction, all other bids would be rejected, with the exception of the Roadmaster bid. Should Staff be unsuccessful in those negotiations, Council would still be able to go with the next bidder, which for all three properties was the Roadmaster.

City Attorney Mark Harrington clarified that this was not a bid process; it was a request for proposals. Utah law does not require cities to go through a formal bid process in the disposition of real property. Staff is seeking direction to enter into negotiations with the preferred proposer.

Mr. Jones clarified that the City had objectives that were based on preservation and economics and they need input as to how the process might work to achieve those objectives if they entertain this proposal. If they enter into a purchase/sale contract and the concept doesn't work through the Planning process, they have not achieved their objectives.

Candace Erickson asked if the City could carry the paper so that it would not lose control of a significant property in case of default on the mortgage. Manager Bakaly suggested a lease if that is a concern. Since the primary objective was historical preservation of the property, we could put those covenants in the sale so they would pass along to the bank should that occur.

Ms. Erickson expressed concern about a restaurant in that location. Attorney Harrington stated Council had discretionary legislative authority to dispose of property and could proceed forward, or not.

Jim Hier recapped the process. He stated the Glory Hole project came to the Council, unsolicited, with a proposal for the use of that particular property. Council felt it was a good idea that fit the economic and cultural goals of the City; however, they decided it was a proper time to see if there was something else that would be better, and issued the RFP.

Mr. Hier did not support rejecting all the proposals. He felt they should go forward with this proposal, review it under the Land Management Code and the Conditional Use Process, and not dismiss it out of hand. He felt the project was properly advertised. He addressed Mr. Gilson's concern that this was being done prior to completion of the Land Management Code and emphasized that the Code is a continually evolving document that is never complete. What is being referenced in this case is the ability to allow specific types of master plans within the HRC and HCB Districts because we can get a getter product and it would allow more flexibility for any proposal on this property.

Mr. Hier felt it was appropriate to recommend pursuing negotiations with the Glory Hole project. Although a performing arts facility was an excellent idea, he did not feel it was the right spot for a performing arts facility because of the impacts on the neighborhood.

Mr. Hier agreed to negotiate separately with the Bertinellis for the Woodside property, and the Glory Hole property on Park Avenue, as they fit within the City's objectives, goals and plans. He did not believe the City should hold the paper and suggested that part of the negotiation be demonstration of financial capability. Zoning and deed restrictions can ensure that the project is built within the confines of the City's desire for that property.

Ms. Calvert concurred they should move forward. She clarified with Mr. Roberts that there would be no noise impact on the surrounding neighborhoods. She further clarified that the surrounding neighborhood would receive notice as the plans progressed through the planning process.

Fred Jones concurred that they should move forward. He felt negotiations needed to be based on appraised values and if that were unacceptable to the Bertinellis, they would need to decide whether to deal with the Woodside property separately or put in into the mix for the Glory Hole. Mr. Hier and Ms. Calvert were comfortable with that direction.

Peg Bodell felt there was some misunderstanding about the differences between an RFP and a bid process; however, she believed this was properly noticed. She felt that

Staff and Council should consider the courtesy of noticing neighbors when an RFP is issued so they are not caught off-guard. She did not think a lease was appropriate and believed the issues could be worked out in the sales agreement. She believed successful preservation was based on the correct use, and this is an appropriate use.

Ms. Bodell expressed concern that if the parcels were broken up, the flexibility and fiscal possibility of developing both houses would be reduced. She expressed a desire to have the Bertinellis work with Mr. Roberts and become part of the process for the Glory Hole. She elaborated that by dealing with the parcel as a whole unit and reviewing it as an MPD, we could have a better project.

Mr. Bertinelli stated they lived in the house because they loved it and were prepared, if given the opportunity, to begin fixing it up within a year, rather than three to five years as projected in Mr. Roberts' proposal.

Mayor Williams concurred that courtesy notices were appropriate. He agreed they should move forward and enter into negotiations with the Glory Hole proposal and the purchase of the Woodside house, and with fair market value. He was not adverse to long-term leases, not carrying paper.

Ms. Erickson concurred with entering into negotiations for fair market value with the Bertinellis and moving forward with the Glory Hole. Her main concern was that the City has some say over the historical quality and uses.

Mr. Hier felt certain they could work out measures to maintain control. He emphasized that the City was better off in the long run by splitting the parcel, than they would be by selling it as one parcel.

Attorney Harrington clarified that Council should direct staff to take specific actions and, because they seem to have consensus, they should direct Staff to reject the rest of the proposals other than the two they have specified that the City work with.

MOTION: Candace Erickson moved to direct staff to: a) get an appraisal of all properties; b) enter into negotiations with Glory Hole for the Park Avenue properties and negotiations with the Bertinelli house on Woodside property; and c) dismiss other three proposals. Fred Jones seconded the motion. The motion was unanimously approved.

Manager Bakaly clarified that the City would pay for the appraisal and Mayor Williams asked that they use someone acceptable to local lenders.

3. Resolution adopting an arts policy for Park City, Utah

Analyst Michelle Barrus presented a resolution establishing the public arts policy advisory board and the public arts policy. This was discussed during work session and incorporated changes directed by the Council.

MOTION: Peg Bodell moved to ADOPT the resolution for the arts policy as presented and revised. Candace Erickson seconded the motion. The motion was unanimously approved.

4. Resolution creating a Police Complaint Review Committee within Park City, Utah

Chief Lloyd Evans reviewed the changes he made in response to direction from the Council during Work Session. In the resolution: the name was changed to Police Complaint Review Committee. In the Policies and Procedures document: added language that terms ended on *June 30* of the expiration year; added that members could be removed from the committee by the Mayor *with approval of Council* for cause; added that the committee will have meetings *once a month as warranted*; and, added a section that the Committee policies and procedures shall be reviewed for changes and updates on an annual basis.

MOTION: Peg Bodell moved to APPROVE the resolution creating a Police Complaint Review Committee within Park City, Utah. Candace Erickson seconded. The motion was unanimously approved.

VII ADJOURNMENT

With no further business, the regular meeting of the City Council was adjourned. The Water District meeting was canceled.

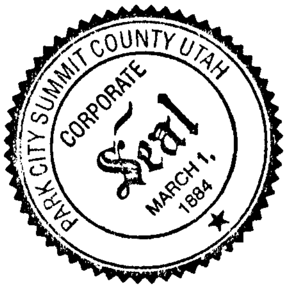
MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 2:30 p.m. Members in attendance were Mayor Dana Williams, Peg Bodell, Kay Calvert, Candace Erickson, Jim Hier, and Fred Jones. Staff present was Tom Bakaly, City Manager; and Mark Harrington, City Attorney. Fred Jones, "I move to close the meeting to discuss property". Kay Calvert seconded. Motion carried unanimously. The meeting opened at approximately 3 p.m.

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 Sharon Bauman

Janet M. Scott, City Recorder



MEMO

PARK CITY
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Public Affairs &
Communications

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Tel 435.615.5200
Fax 435.658.8998
www.parkcity.org

To: Mayor & City Council
From: Myles C. Rademan
Subject: CUSTOMER SERVICE SURVEY – INSIGHT RES
Date: 12/8/2003

David Spatafore, President of Insight Research, will present the results of a city sponsored scientific customer service survey to the Council at 4:00 PM on Thursday, December 11, 2003.

The attached Executive Summary demonstrates among other findings the following:

- Only **51%** of respondents reported having had contact with the City or its staff during the past year
    - The older the respondents the higher their likelihood of contact
    - The majority had contact with City Hall, the Library, or the Police
- **83%** reported being treated professionally, courteously and fairly; 5% said they were not
- **70%** reported that communications from the city were either excellent or good
    - A much higher percentage **(83%)** of those who had interest in the last local election reported excellent or good communications
    - **39%** report using the City's web site
- Primary sources for getting local information are:
    - 52% KPCW
    - 22% Park Record
    - 6% PCTV
    - 17% all other sources
- Satisfaction with 14 different City were rated:

- All City Services received a greater than 50% approval
- **80%** or greater approval ratings were received by: library, trails, parks, special events, police, recreation programs, golf course & snowplowing
- David Spatafore, President of Insight Research wrote "the City should be commended" for these exceptionally high levels of customer service.

- An extensive series of cross tabulations were made by age, gender, income, length of stay in the community, neighborhood, and even political affiliation. These are described more fully in the Executive Summary.
    - Older respondents rated police more highly than younger respondents
    - Older respondents rated snowplowing and streets lower than younger respondents
    - Those with longer tenures and high interest in local affairs rated communications higher than those with short tenures and low interest

The Insight Research survey was conducted in conjunction with the KPCW election survey and encompassed approximate 400 telephone interviews. The results closely tracked results of the previous postcard mail-in Customer Service Survey conducted as part of Citizens Guide to City Government in December 2002. Another post-card mail-in survey will be distributed with the new Citizens Guide to Park City Government in February 2004.

City Council
Staff Report

PARK CITY 1884

Author:	**Eric Nesset, Transit-Parking Mgr.**
	Kent Cashel, Asst. Pub. Wks. Dir.
Subject:	**ADA PARATRANSIT &**
	SENIOR MOBILITY PROGRAMS
Date:	**December 11, 2003**
Type of Item:	**Adoption of Resolutions**

Public Works

Summary Recommendations:

Adopt resolutions approving Park City Transit's Policies and Procedures to Ensure Compliance with the American with Disabilities Act and Senior Mobility Program.

Description:

A. Background:

Park City Transit's ADA Para-transit program was last amended in 1995. Since that time the scope of transit services provided by the City has changed dramatically. The expanded scope of transit services and recent court rulings surrounding ADA paratransit programs have made it clear that it is time to amend the City's ADA program. The need and justification for these amendments were presented to the Mayor and City Council at the November 20th City Council meeting

Staff prepared a draft ADA Paratransit program as well as a draft Senior Mobility program for the public and the Mayor and City Council to provide comment. A public hearing was held during the December 4th Council meeting. Staff has amended the draft programs to include changes requested by Council. There were no comments by the public during the December 4th public hearing.

B. Analysis:

The change requested by Council and included in the attached policies is to provide for more personal contact and counseling prior to initiating a six-month probation for an individual who repeatedly misses scheduled trips. This change is included in the second paragraph, Section 7, of both policies. A definition of the Appeals Board was also requested and is now included Section 6 of the ADA policy and Section 7 of the Senior Mobility Policy. These changes are highlighted in yellow.

The table below contains the major amendments and a brief description of the changes in the programs:

Section #	Section Amended (Proposed)	Description
1.	**Purpose**	Language added to clarify purpose of program
2.	**Transportation Facility and Vehicle Accessibility**	Language added to clarify Park City Transit's commitment to providing accessible facilities and equipment.
3.	**Paratransit as Complement to Fixed Route Service**	Language cleaned up to more clearly define Park City Transit's intent to provide comparable service.
4.	**Type of ADA Service**	Language more clearly defines types of service provided
5.	**Eligibility Standards**	Primary change is removal of any age based eligibility criteria from ADA Paratransit program. Seniors transportation will now be provided under Senior Mobility Program (see attached program). Language has been amended to more clearly match eligibility requirements with those contained in the American with Disabilities Act (ADA).
6.	**Eligibility Determination Process**	Clean-up of language to reflect current determination process. Also language that enables Staff to require individuals to re-certify eligibility at reasonable intervals or when an individual situation warrants.
7.	**Administrative Appeals Process**	New process will provide for one (consistent) appeals process for all required federal programs.
8.	**Suspension of Service/ No-Show Policy**	Provides for a more clearly defined (and stricter) policy to manage individuals who exhibit a pattern of scheduling rides and not showing for them.
9.	**Service Area**	Amended service area to reflect requirements set forth in ADA.
10.	**Response Time**	Language more clearly reflects current practice and requirements set forth in ADA
11	**Additional Service**	Language more clearly defines policy on same-day scheduling of rides. Also Language establishing policy on Subscription Service that allows for scheduling for routine trips (medical,

Section #	Section Amended (Proposed)	Description
		shopping, or etc.) up to six months in advance.

C. Department Review:

This Staff report has been reviewed by The City Manager's Office, the City Attorney's Office, Budget\Debt and Grants and Public Works.

Alternatives:

A. Approve the Request:
The Mayor and Council should adopt resolutions approving the attached ADA Paratransit and Senior Mobility policies. This is Staff's recommendation.

B. Deny the Request:
Council could direct Staff to make no amendments to the current ADA Paratransit program. This alternative would leave the City exposed to violation of ADA requirements. Staff does not recommend this alternative.

C. Continue the Item:
Council could continue this item. This alternative would leave the City exposed to violation of ADA requirements for the period of continuance. Staff does not recommend this alternative.

D. Do Nothing:
Council could do nothing. This alternative would have the same effect as Alternative C. Staff does not recommend this alternative.

Significant Impacts:

Creating two separate programs for Seniors and ADA eligible riders will mitigate the City's exposure to violating the no trip denial provision of the ADA. However, it may not delay or eliminate the need for additional drivers and equipment to provide both services. This uncertainty exists as many riders currently certified using the age requirement may also be eligible under ADA defined eligibility criteria. The cost savings of these changes will only be clearly known after current riders are required to re-certify under the new program criteria.

Consequences of not taking the recommended action:

If Council should choose to not take the recommended action the City will continue to be exposed to violating ADA requirements. Staff will likely need to include a budget request for an additional vehicle and drivers as part of the 2004 budget process (approx. $55,000 for a vehicle and $75,000 annual operating costs).

Recommendation:

The Mayor and Council should review the attached ADA Paratransit Program and Senior Mobility Program and pass the resolutions adopting the two programs.

Attached ADA Paratransit Program
Senior Mobility Program
Resolution Adopting the ADA Paratransit Program
Resolution Adopting the Senior Mobility Program

PARK CITY TRANSIT DEPARTMENT
POLICIES & PROCEDURES TO ENSURE COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT

1. PURPOSE

Federal Transit Administration (FTA) grantees are required to comply with Title I and Title II of the Americans with Disabilities Act (ADA) of 1990 which states that no entity will discriminate against an individual with a disability in connection with the provision of transportation service. The law sets forth specific requirements for vehicle and facility accessibility and the provision of complementary paratransit service. The Park City Transit (PCT) Department herein establishes its Policy to comply with the requirements of the ADA and its implementing regulations at 49 CFR Parts 27, 37 and 38.

2. TRANSPORTATION FACILITY AND VEHICLE ACCESSIBILITY

PCT will construct any new facility to be used in providing designated public transportation services so that the facility is readily accessible to and usable by individuals with disabilities. PCT will also ensure that all vehicles procured or leased will be readily accessible to and usable by individuals with disabilities.

3. PARATRANSIT AS A COMPLEMENT TO FIXED-ROUTE SERVICE

PCT shall provide paratransit service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed-route service.

4. TYPE OF ADA PARATRANSIT SERVICE

PCT paratransit service is a door-to-door service. Drivers may assist passengers to and from their residence and/or destination point. No PCT vehicle operator will enter a private residence or a public facility in order to provide this service. PCT vehicle operators will assist ADA paratransit eligible individuals in boarding and disembarking PCT vehicles, and will assist with that cargo (e.g., baggage, bags of groceries, etc.) that may be reasonably carried aboard by one person.

5. ELEGIBILITY STANDARDS

The following individuals will be considered ADA paratransit eligible:

Any individual with a disability who is unable, as the result of a physical or mental impairment (including a vision impairment), and without the assistance of another individual (except the operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the fixed-route system which is readily accessible to and usable by individuals with disabilities;

Any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device and is able, with such assistance, to board, ride and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time, or within a reasonable period of such time, when such a vehicle is not being used to provide designated public transportation on the route (e.g., when a lift is inoperable on the fixed-route system); and/or

Any individual with a disability who has a specific impairment-related condition that prevents the individual from traveling to a boarding location or from a disembarking location of the fixed-route service.

One other individual accompanying an ADA paratransit eligible individual will be provided service if 1) the accompanying individual is acting as a personal assistant; 2) is a family member or friend.

In order to be considered as "accompanying" the eligible individual for purposes of this Policy, the other individuals will have the same origin and destination as the eligible individual.

6. ELIGIBILITY DETERMINATION PROCESS

All information about the eligibility process, materials necessary to apply for eligibility, and notices and determinations concerning eligibility will be made available in accessible formats. If a request for a format not currently offered by the PCT is made, PCT staff will work with local accessibility groups to produce the requested media.

PCT staff will review completed applications and determine eligibility. PCT may utilize a third party physician or physical therapist to assist in eligibility determinations. If, by a date twenty-one (21) calendar days following submission of a complete application, PCT staff has not made a determination of eligibility, the applicant will be treated as eligible and provided service until and unless PCT denies the application.

PCT's determination concerning eligibility will be in writing. If the determination is that the individual is ineligible, the determination will state the reason(s) for the finding.

PCT may require re-certification of the eligibility of ADA paratransit eligible individuals at reasonable intervals, or as needed.

Administrative Appeals definitions:

a. *ADA Appeals Board:* The City Manager or his/her designee, an attorney for the City Attorney's Office and a Manager other than the Public Works Director.

b. *Complaint:* A Complaint shall be defined as a written assertion that any person, individually or as a member of a specific class of persons, has been subject to discrimination on the basis of a disability in connection to the provision of transportation service.

c. *ADA Officer:* An employee of Park City designated by the City Manager to process Complaints according to procedure specified in this policy.

d. *Assistant Public Works Director:* The Assistant Public Works Director within the Park City Public Works Department.

Administrative Appeals Process:

1. A Complaint must be filed within thirty (30) calendar days of the alleged wrong doing with the Park City Municipal Corporation Legal Department. Any individual needing assistance with writing the Complaint, may ask the Legal Department for such assistance.

2. The Complaint shall be forwarded to the ADA Officer, who shall be appointed by the City Manager. The ADA Officer shall investigate the Complaint and prepare a written response, including any remedial or enforcement action, within thirty (30) calendar days and forward the response to the Complainant and Assistant Public Works Director.

3. Board Appeal Level:

   In all cases where the Complainant or Assistant Public Works Director disagrees with a decision of the ADA Officer, the Complainant or Assistant Public Works Director may appeal the decision of the ADA Officer to the Appeals Board.

   The appeal shall be taken by filing written notice of the appeal with the City Recorder within ten (10) calendar days after the decision of the ADA Officer. Upon the filing of the appeal, the ADA Appeals Board shall commence its investigation, take and receive evidence, and fully hear and determine the matter. The Complainant and Assistant Public Works Director shall be entitled to appear in person and to be represented by counsel, to have a hearing, to confront the witness whose testimony is to be considered, and to examine the evidence to be considered by the appeals board. The ADA Appeals Board's decision shall be made to the Complainant and the Assistant Public Works Director in writing.

State and Federal Appeals Process:

In The event the ADA Appeals Board upholds the ADA Officer's decision, the Complainant may file the Complaint with the Utah Department of Transportation, the Federal Department of Transportation, or the Federal Transit Administration Offices.

There are certain circumstances under which an individual, otherwise eligible for ADA paratransit services, may be denied those services, these circumstances are:

- A person whose behavior threatens or has threatened the safety of paratransit personnel or other customers,
- Persons who demonstrate a consistent pattern of missing scheduled paratransit trips, "no-shows", may lose their eligibility.

Such temporary suspensions of eligibility, as well as permanent loss of eligibility because of violent or threatening behavior, may be appealed through the above appeals process. In the case of temporary suspension due to "no-shows", suspension of service will not begin until the appeals process is complete.

7. SUSPENSION OF SERVICE/NO-SHOW POLICY

PCT will suspend the provision of service to ADA paratransit eligible individuals who establish a pattern or practice of missing scheduled trips. A "no-show" will be added to your record when the following situations occur:

- Not being at the scheduled pick-up point within 5 minutes after the bus arrives.
- Canceling a ride less than 90 minutes before the scheduled pick-up time.
- Not canceling a scheduled pick-up time.
- Choosing not to ride after the vehicle arrives for the pick up.

When a no-show occurs, the PCT vehicle operator will notify the PCT dispatcher. A notation will be made on the individual's database record. If a second no-show occurs decision by following the appeal process described in the letter. If an appeal is requested, it will be scheduled for ADA Appeals Board review within 30 days of the request, and the suspension of service will be delayed until the appeal is heard. If the no-shows are determined not to be the fault of the individual, service eligibility will be restored. Individuals will be notified by certified letter of the decision regarding the appeal within seven days of the ADA Appeals Board meeting and this notification will state the new date on which the suspension, if up-held, will begin.

The individual requesting the appeal may bring other persons to represent him/her including a lawyer, independent living or rehabilitation counselor or other professional to testify on his/her behalf. A sign interpreter will be provided if requested, and an attempt will be made to provide language interpreters.

8. VISITORS

Visitors to our service district may be asked for certification of eligibility from their resident service district. If an individual does not have certification from their resident service district but makes a claim of eligibility, the claim will be honored on a presumption of eligibility. If the visitor has no certification of eligibility and their length of stay exceeds 21 days, we may require the individual to obtain local certification.

9. SERVICE AREA

PCT's paratransit service area shall include all areas within ¾ mile of any PCT fixed bus route that is operated by PCT.

10. RESPONSE TIME

PCT will schedule and provide paratransit service to any ADA paratransit eligible person at any requested time PCT's fixed-route buses are in operation on a particular day in response to a request for service made the previous service day and up to 7 days in advance. Reservation agents will take reservations from 8:00 a.m. to 5:00 p.m. on Monday through Friday, and by mechanical means on Saturday and Sunday from 8:00 a.m. until 5:00 p.m. for Sunday and Monday trips only.

PCT will make an effort to schedule rides for ADA eligible persons at the requested time however, rides may be scheduled within one hour before or after the requested time. PCT is considered on time if the vehicle arrives at the scheduled pick-up point between 15 minutes before or 15 minutes after the scheduled time. PCT will wait up to 5 minutes for the scheduled rider to board.

11. ADDITIONAL SERVICES

Same- Day Service-

From 8:00 a.m. to 5:00 p.m., Monday through Friday, PCT paratransit drivers can be reached on a cell phone to arrange same-day rides. This service is available only for same-day rides that occur between 8:00 a.m. and 5:00 p.m. Monday through Friday and are only on a space/time available basis, for the convenience of eligible riders.

<u>Subscription Service</u> –

Subscription service is the provision of repetitive trips over an extended period of time. PCT will allow ADA eligible riders to schedule rides for up to a 6-month period. However, PCT will not schedule in a subscription context more than fifty percent of the possible/potential trips during any two-hour window.

PARK CITY TRANSIT DEPARTMENT
SENIOR MOBILITY PROGRAM
POLICIES & PROCEDURES

1. PURPOSE

Park City Council has directed Park City Transit (PCT) to make available many of the transit services provided to disabled individuals as required under the Americans with Disabilities Act (ADA) to those Park City residents 65 years older, providing that PCT's compliance with its ADA Policies & Procedures is not jeopardized.

2. TRANSPORTATION FACILITY AND VEHICLE ACCESSIBILITY

PCT will construct any new facility to be used in providing designated public transportation services so that the facility is readily accessible to and usable by individuals with disabilities. PCT will also ensure that all vehicles procured or leased will be readily accessible to and usable by individuals with disabilities.

3. SENIOR MOBILITY SERVICE AS A COMPLEMENT TO FIXED-ROUTE SERVICE

PCT shall provide Park City residents 65 years or older service that is similar to the level of service provided to individuals with disabilities who are unable to use the fixed-route service.

4. TYPE OF SERVICE

PCT Senior Mobility service is a door-to-door service. Drivers may assist passengers to and from their residence and/or destination point. No PCT vehicle operator will enter a private residence or a public facility in order to provide this service. PCT vehicle operators will assist eligible individuals in boarding and disembarking PCT vehicles, and will assist with that cargo (e.g., baggage, bags of groceries, etc.) that may be reasonably carried aboard by one person.

5. ELEGIBILITY STANDARDS

The following individuals will be considered Senior Mobility eligible:

Those individuals residing within the city limits of Park City who are 65 years or older. One other individual accompanying a Senior Mobility eligible individual will be provided service if 1) the accompanying individual is acting as a personal assistant; 2) is a family member or friend.

In order to be considered as "accompanying" the eligible individual for purposes of this Policy, the other individuals will have the same origin and destination as the eligible individual.

6. ELIGIBILITY DETERMINATION PROCESS

Applications must include proof of age and proof of residency within the city limits of Park City.

There are certain circumstances under which an individual, otherwise eligible for Senior Mobility services, may be denied those services, these circumstances are:

- A person whose behavior threatens or has threatened the safety of personnel or other customers,
- Persons who demonstrate a consistent pattern of missing scheduled trips, "no-shows", may lose their eligibility.

Such temporary suspensions of eligibility, as well as permanent loss of eligibility because of violent or threatening behavior, may be appealed through a process that will be described in the notice of suspension of service. In the case of temporary suspension due to "no-shows", suspension of service will not begin until the appeals process is complete.

7. SUSPENSION OF SERVICE/NO-SHOW POLICY

PCT will suspend the provision of service to Senior Mobility eligible individuals who establish a pattern or practice of missing scheduled trips. A "no-show" will be added to your record when the following situations occur:

- Not being at the scheduled pick-up point within 5 minutes after the bus arrives.
- Canceling a ride less than 90 minutes before the scheduled pick-up time.
- Not canceling a scheduled pick-up time.
- Choosing not to ride after the vehicle arrives for the pick up.

When a no-show occurs, the PCT vehicle operator will notify the PCT dispatcher. A notation will be made on the individual's database record. If a second no-show occurs within a 30-day period, PCT will make a reasonable attempt to contact the individual, explain the no-show policy and attempt to identify ways for the individual to comply with the policy. A third no-show within a 30-day period will result in a six-month probation. PCT staff will mail a letter to the individual explaining that the individual's Senior Mobility eligibility has been placed on probation, and will attempt to identify ways to avoid further sanctions.

Administrative Appeals Definitions:

e. *Appeals Board:* The City Manager or his/her designee, an attorney for the City Attorney's Office and a Manager other than the Public Works Director.

f. *Complaint:* A Complaint shall be defined as a written assertion that any person, individually, has been subject to discrimination in the administration of Park City's Senior Mobility Program by the Park City Municipal Transit System or its contractors, employees, or agents.

Administrative Appeals Process:

If, during the probation period, the person has 3 more no-shows, the individual will be notified by Registered Mail that their Senior Mobility eligibility has been suspended. Eligibility will be suspended for one week for the first violation. If second and subsequent violations occur during this probationary period the individual will be suspended for two months. If more than one year elapses between any two stages of violation, the progression of suspensions would start from the first step.

The suspension of service will become effective 7 days from the date the Registered letter of notification is mailed in order to allow the individual to appeal the suspension. The notification of suspension will include the specific reasons for the suspension. The rider will have fifteen days from the receipt of the letter to appeal the suspension decision by following the appeal process described in the letter. If an appeal is requested, it will be scheduled for Appeals Board review within 30 days of the request, and the suspension of service will be delayed until the appeal is heard. If the no-shows are determined not to be the fault of the individual, service eligibility will be restored. Individuals will be notified by certified letter of the decision regarding the appeal within seven days of the Appeals Board meeting and this notification will state the new date on which the suspension, if up-held, will begin.

The individual requesting the appeal may bring other persons to represent him/her including a lawyer, independent living or rehabilitation counselor or other professional to testify on his/her behalf. A sign interpreter will be provided if requested, and an attempt will be made to provide language interpreters.

8. <u>VISITORS</u>

Visitors to our service district may be asked for certification of eligibility. If the visitor has no certification of residency and their length of stay exceeds 21 days, we may require the individual to obtain proof of Park City residency.

9. <u>SERVICE AREA</u>

PCT's Senior Mobility service area shall include all areas within ¾ mile of any PCT fixed bus route that is operated by PCT.

10. <u>RESPONSE TIME</u>

PCT will schedule and provide service to any Senior Mobility eligible person at any requested time PCT's fixed-route buses are in operation on a particular day in response to a request for service made the previous service day and up to 7 days in advance on a space/time available basis. Reservation agents will take reservations from 8:00 a.m. to 5:00 p.m. on Monday through Friday, and by mechanical means on Saturday and Sunday from 8:00 a.m. until 5:00 p.m. for Sunday and Monday trips only.

PCT will make an effort to schedule rides for Senior Mobility eligible persons at, or as near as possible to the requested time. PCT is considered on time if the vehicle arrives at the scheduled pick-up point between 15 minutes before or 15 minutes after the scheduled time. PCT will wait up to 5 minutes for the scheduled rider to board.

11. ADDITIONAL SERVICES

Same- Day Service-

From 8:00 a.m. to 5:00 p.m., Monday through Friday, PCT paratransit/Senior Mobility drivers can be reached on a cell phone to arrange same-day rides. This service is available only for same-day rides that occur between 8:00 a.m. and 5:00 p.m. Monday through Friday and are only on a space/time available basis, for the convenience of eligible riders.

Subscription Service –

Subscription service is the provision of repetitive trips over an extended period of time. PCT will allow Senior Mobility eligible riders to schedule rides for up to a 6-month period. However, these rides are subject to rescheduling or cancellation if required for PCT to remain in compliance with its ADA Policies & Procedures.

Subscription Service –

Subscription service is the provision of repetitive trips over an extended period of time. PCT will allow ADA eligible riders to schedule rides for up to a 6-month period. However, PCT will not schedule in a subscription context more than fifty percent of the possible/potential trips during any two-hour window.

A RESOLUTION ADOPTING POLICIES AND PROCEDURES TO ENSURE COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT

WHEREAS, Federal Transit Administration requires grantees to comply with Title I and Title II of the Americans with Disabilities Act (ADA); and

WHEREAS, Park City Transit's ADA Paratransit program was last amended in 1995 and requires amending to remain compliant with recent court rulings; and

WHEREAS, a public hearing was held on December 4, 2003, to receive public comments on amended ADA Paratransit Policies and Procedures,

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

SECTION 1. POLICIES AND PROCEDURES TO ENSURE COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT. Is hereby amended and hereby replaced in its entirety.

SECTION 2. EFFECTIVE DATE. This resolution shall take effect upon adoption.

PASSED AND ADOPTED this 11th day of December, 2003.

PARK CITY MUNICIPAL CORPORATION

____
Mayor Dana Williams

Attest:

____
Janet M. Scott, City Recorder

Approve to form:

____
Mark D. Harrington, City Attorney

Resolution No.

A RESOLUTION ADOPTING
SENIOR MOBILITY POLICIES AND PROCEDURES

WHEREAS, Park City Transit is directed to make many of the transit services provided to disabled individuals, available to those residents of Park City 65 years or older; and

WHEREAS, a Senior Mobility Program has been developed to provide these transit services; and

WHEREAS, a public hearing was held on December 4, 2003, to receive public comments on Senior Mobility Policies and Procedures,

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

SECTION 1. SENIOR MOBILITY POLICIES AND PROCEDURES. Is hereby amended and hereby replaced in its entirety.

SECTION 2. EFFECTIVE DATE. This resolution shall take effect upon adoption.

PASSED AND ADOPTED this 11th day of December, 2003.

PARK CITY MUNICIPAL CORPORATION

____
Mayor Dana Williams

Attest:

____
Janet M. Scott, City Recorder

Approve to form:

____
Mark D. Harrington, City Attorney

City Council
Staff Report

Author:	**Kirsten Whetstone**	
Subject:	**Hoffman Annexation Petition**	
Date:	**December 11, 2003**	Planning Department
Type of Item:	**Legislative**	

Summary Recommendations:
Review the submitted annexation petition and take action to either accept or reject the petition for annexation.

Description:

D. Topic

Project Name:	Hoffman Annexation
Applicant:	Aaron Hoffman, owner
Representative:	Jeff Graham, Jack Johnson Company
Location:	North of Sandstone Cove Subdivision
Zoning:	Summit County- SL (Sensitive Lands @ 1 unit per 40 acres) and DL (Developable Lands @ 1 unit per 20 acres)
Proposed Zoning:	E- Estate and ROS- Recreational Open Space
Adjacent Land Uses:	single family residential, vacant
Proposed Use:	one single family residence on 3 acres and 7 acres of open space

E. Background

On August 4, 2003 the property owner submitted to the Planning Department an annexation petition application for three parcels of land under single ownership, within Summit County's jurisdiction. The property is located directly west of the Mountain Top Subdivision (see vicinity map). The total land area of the three parcels is 10 acres. The applicant also submitted a preliminary subdivision plat for one 3-acre single-family lot and one 7 acre dedicated open space parcel.

Staff has worked with the applicant to ensure that all materials required to form a complete annexation petition according to provisions of the City's Annexation Policy Plan have been filed. A signed annexation plat, prepared by a licensed surveyor, has been filed. The applicant also has provided the necessary notification of the intent to file the petition to the required affected entities.

The property is currently vacant and has frontage on a private street and legal access via an easement granted by the Snow Top Subdivision Association of Property Owners. This access easement is permitted for one single-family lot. Information regarding ownership, slopes, geology, vegetation, soils, sensitive lands, wildlife, roads, utilities, water rights, school impact information, access and easements has also been submitted and is on file at the Planning Department.

F. Analysis

The property consists of three contiguous parcels that are contiguous to the Park City Municipal boundary. The parcels are within the Annexation Expansion Area, as described by the adopted Annexation Policy Plan. After determining that the annexation petition application is complete pursuant to the City's Annexation Policy Plan, staff has scheduled the petition for City Council acceptance or rejection at its first regularly scheduled meeting that is at least 14 days after the date the petition was filed, as required by state law.

Municipal annexation is a legislative act governed procedurally by Utah state law. Once the annexation petition is filed with the City Recorder, the petition is presented to the municipal legislative body for acceptance or rejection. Because annexation is a legislative act, the Council's decision to accept or reject the petition is not governed by statutory criteria: subject to constitutional restraints, acceptance or rejection is at the Council's discretion. It is important to note that a decision to reject the petition ends the annexation process, while a decision to accept the petition is not final, but only allows the process to continue for further consideration via the certification and subsequent public hearing process.

If the Council accepts the petition, then a 30-day certification review process will commence wherein Staff will determine whether the petition meets all requirements of Utah State Code Sections 10-2-403(2), (3), and (4). If staff determines that the petition meets these requirements, then the City Recorder will certify the petition and commence the public notification and hearing process. If staff determines that the petition fails to meet any of the statutory requirements, then the City Recorder will reject the petition and deliver written notification of rejection to the applicant and other parties required by state law. The applicant then will have the opportunity to modify the petition to correct the deficiencies for which it was rejected and refile the petition with the City Recorder.

Alternatives: It is important to note that pursuant to Utah State Code Section 10-2-405(1)(a)(i)(B), if the Council does not take action on this annexation petition at its first regularly scheduled meeting that is at least 14 days after the date the petition was filed (this meeting, December 11, 2003), then the annexation petition shall be considered accepted for further consideration. Accordingly, taking no action and/or continuing this item are not options available to the Council; either action represents acceptance of the petition.

A. Accept the annexation petition for further consideration, thereby triggering the 30-day certification review process;

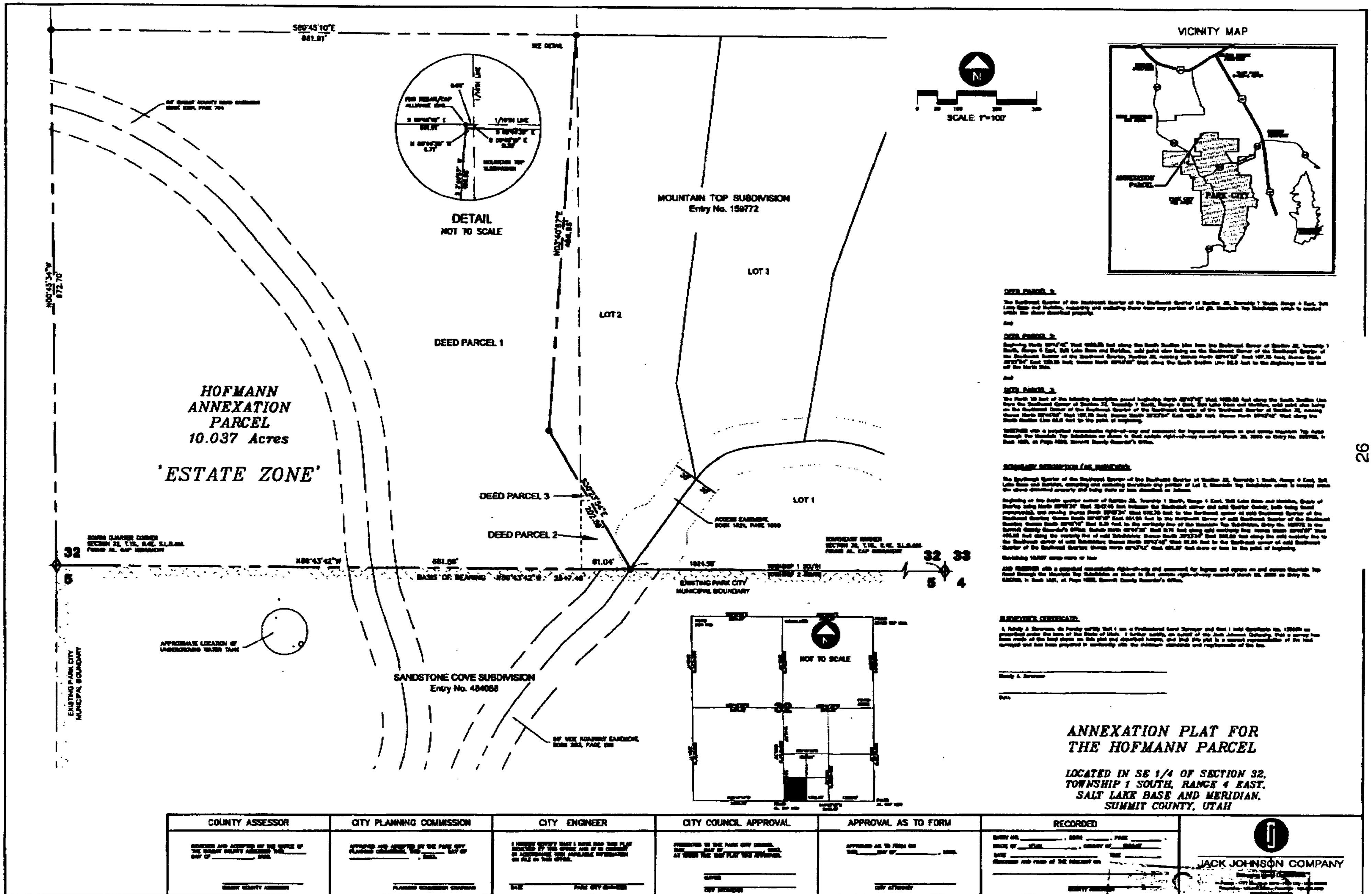
B. Reject the annexation petition, thereby ending the annexation process.; or

C. Do nothing or continue the item. Pursuant to state law, the annexation petition is considered accepted for further consideration, thereby triggering the 30-day certification review process.

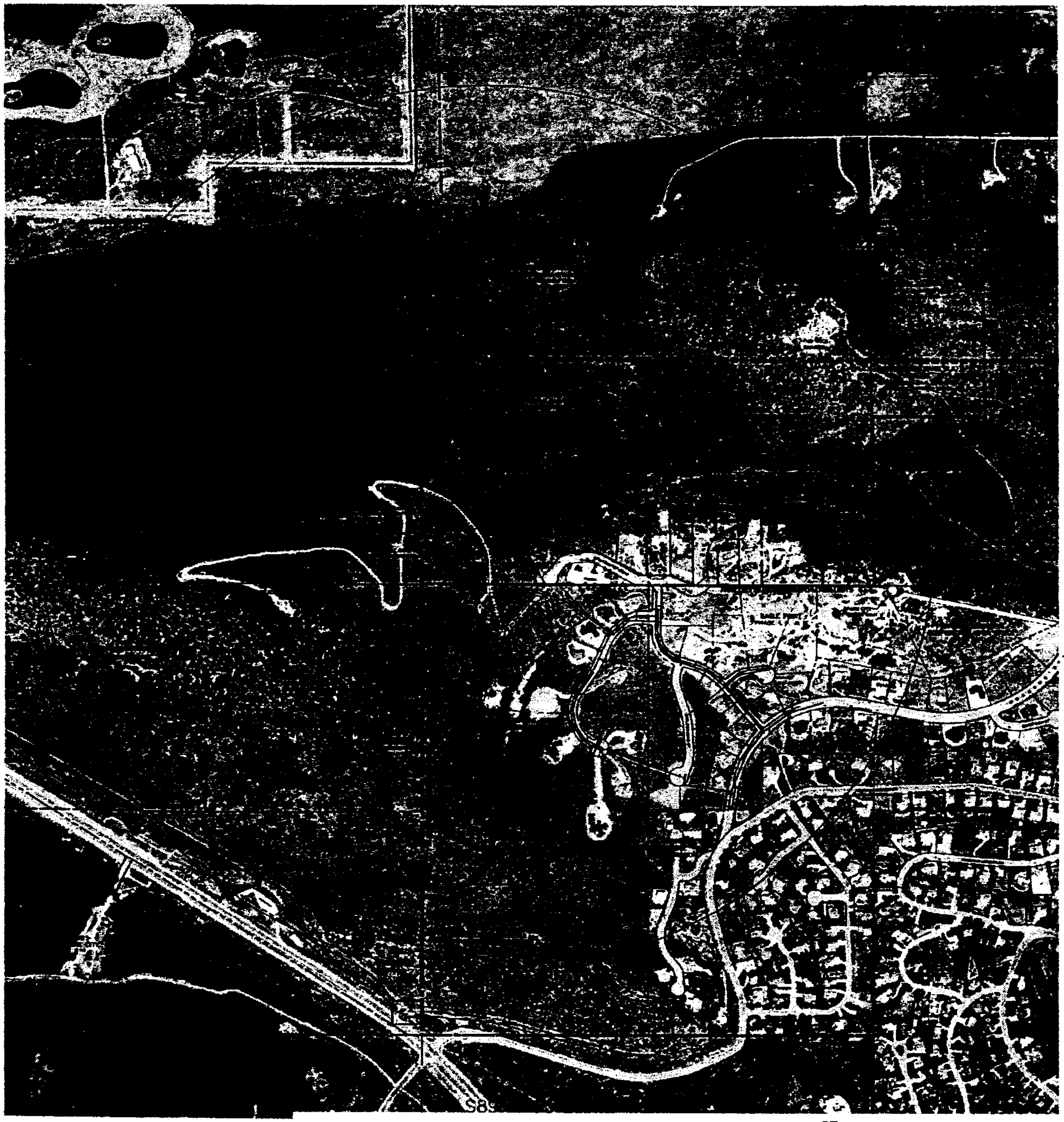
Recommendation:
Staff recommends the Council review the petition for annexation of the 10 acre Hoffman property and take action to either accept for further review, or reject, the petition.

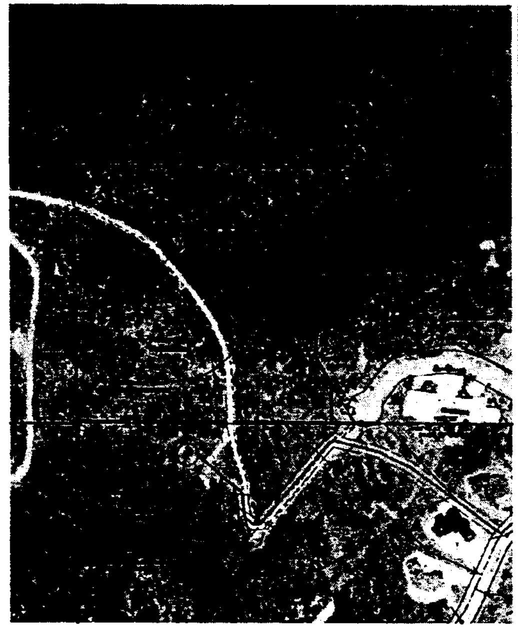
Exhibits

Exhibit A – Annexation plat- see PDF file
Exhibit B – Vicinity and ownership map and aerial- see PDF file

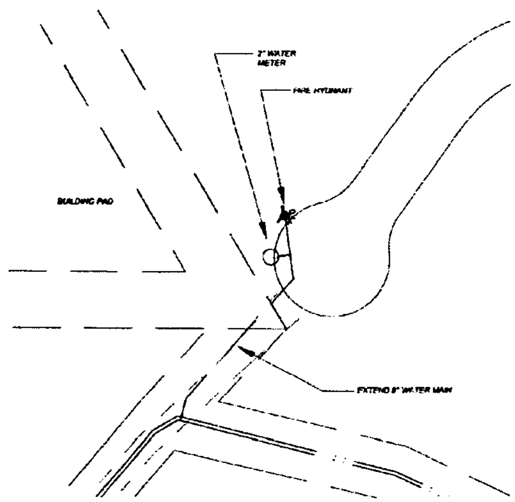

HOFMANN
ANNEXATION
PARCEL
10.037 Acres
'ESTATE ZONE'
DEED PARCEL 1
DEED PARCEL 2
DEED PARCEL 3
LOT 1
LOT 2
LOT 3
MOUNTAIN TOP SUBDIVISION
Entry No. 159772
SANDSTONE COVE SUBDIVISION
Entry No. 484088
DETAIL
NOT TO SCALE
SEE DETAIL
S89°43'10"E
661.81'
N00°45'34"W
872.70'
N03°40'57"E
484.83'
N88°43'42"W
BASIS OF BEARING
EXISTING PARK CITY MUNICIPAL BOUNDARY
SCALE: 1"=100'
NOT TO SCALE
VICINITY MAP
32
5
32 33
5 4
ANNEXATION PLAT FOR
THE HOFMANN PARCEL
LOCATED IN SE 1/4 OF SECTION 32,
TOWNSHIP 1 SOUTH, RANGE 4 EAST,
SALT LAKE BASE AND MERIDIAN,
SUMMIT COUNTY, UTAH
COUNTY ASSESSOR
CITY PLANNING COMMISSION
CITY ENGINEER
CITY COUNCIL APPROVAL
APPROVAL AS TO FORM
RECORDED
JACK JOHNSON COMPANY

NOV 25 2003





Scale 1"=150'



Scale 1"=30'

Notes:

*The parcel does not contain any critical habitat for endangered species or endagered plant species. The parcel does provide year long habitat for Mule Deer and Moose.

N

SCALE: 1"=300'

JACK JOHNSON COMPANY

Designing World Destinations

ANNEXATION SUBMITTAL

HOFMANN PROPERTIES, LC

ANNEXATION SUBMITTAL

ADJACENT PROP. OWNERSHIPS/ EXISTING COND.	SHT 3

City Council
Staff Report

Author:	**Lori W. Collett**
Subject:	**Finance Manager**
Date:	**December 8, 2003**
Type of Item:	**Work Session- Informational**

FINANCE &
ACCOUNTING

Summary Recommendations:
Accept the audit. No other action is required.

Description:

G. **Topic:** Audit report for the Fiscal Year Ended June 30, 2003.

H. **Background: City of Park City Comprehensive Annual Financial Report (CAFR) and Independent Auditor's Report**

The CAFR includes all funds of the City of Park City (City) and is presented in four sections:

a. Introductory;
b. Financial;
c. Statistical; and
d. Single Audit, Internal Control and Compliance Reports.

The Introductory Section contains a letter of transmittal, a directory of principal officials and an organizational chart of the City. The Financial Section contains management's discussion and analysis (MD&A), the basic financial statements, notes to the financial statements, individual fund statements for which data are not provided separately within the basic financial statements, as well as the independent auditor's report on these financial statements and schedules. The Statistical Section includes selected financial and demographic information, generally presented on a multi-year basis.

The CAFR is the major document used to communicate the City's financial condition. It is distributed to various bond-rating agencies, investors in City debt and the State Auditor for use in evaluating City finances. This is the first year the CAFR has been prepared using the new financial reporting requirements as prescribed by Governmental Accounting Standards Board (GASB) Statement No. 34, *Basic Financial Statements and Management's Discussion and Analysis-for State and Local Governments*. The first two basic financial statements, the Statement of Net Assets (Page 19-20) and the Statement of Activities (Page 21-22), now present information on a government-wide, full-accrual accounting basis which reflect the overall financial position of the City and its various funds, not just the amounts available for budgetary purposes. Fiscal operations in the government-wide statements are organized into two major activities: governmental and business-type.

Fund information is also presented for major funds individually and nonmajor funds combined in a single column in the basic financial statement (Pages 25 through 37). Because the focus is so different between fund statements and government-wide statements, a reconciliation between the two types of statements is necessary to understand how the numbers differ. Such reconciliations are provided on pages 26 and 28. Comparisons of "budget-to-actual" results for the General Fund are presented as required supplementary information (Page 63-64).

Staff suggests attention be focused on the MD&A (Pages 4 through 17) and the notes to the basic financial statements (Pages 38 through 60). The notes to the basic financial statements in the Financial Section provide required detailed disclosures and a description of the financial statements.

The Statement of Net Assets (Page 19-20) may serve as a useful indicator of a government's financial position. The City had positive net assets of $158.9 million at fiscal year end. The largest portion of the net assets, $106.8 million, represents the investment in capital assets. Restricted net assets of $3.6 million are resources that are subject to external restrictions on how they may be used. The remaining $48.5 million in net assets are unrestricted and may be used to meet the City's ongoing obligations. Again, this is an overall financial position indicator and is not the amount of current resources available for budgetary purposes.

Looking at results on a fund basis (Page 25), the City's governmental funds reported combined ending fund balance of $41.2 million, an increase of $2.1 million compared to the beginning of year fund balance amount. Of the combined total fund balance, $13.0 million is available for spending at the discretion of the City (unreserved and undesignated fund balance). The General Fund unreserved and undesignated fund balance at June 30, 2003 totaled $2,746,178 and is 17.5 percent of the General Fund total revenues for the year and 21.2 percent of total governmental unreserved and undesignated fund balance.

General Obligation Bonds - Audit of Bond Expenditures

Resolution No.16-98, *Resolution to Appoint a Citizens Committee to Advise the City Council on Community Priorities for Open Space Acquisition, Methods to Permanently Preserve Open Space, and to Account for Expenditure of Open Space Bond Proceeds should Voters Approve a General Obligation Bond to Preserve Open Space*, requires the City to annually audit bond expenditures and report the results of such audit to the public. During the year ended June 30, 2003, no open space parcels of land were purchased. Subsequent to fiscal year end on September 10, 2003, the City issued General Obligation Bonds, Series 2003 in the amount of $5,000,000.

Single Audit Report

As a recipient of Federal and State funds, the City it responsible for ensuring that an adequate internal control structure is in place in order to maintain compliance with applicable laws and regulations related to the purpose of the funds.

As a part of the City's single audit, tests were made to determine the adequacy of the internal control structure, including that portion of the structure related to Federal financial assistance programs, as well as to determine that the City complied with all applicable laws and regulations. The results of the City's single audit for fiscal year 2002-03 indicated no instances of material weaknesses in the internal control structure or violation of applicable laws and regulations.

Comments from the City's Audit Firm of Deloitte and Touche LLP
The auditors identified one minor State Compliance issue. The City is required to advertise for B&C road fund projects in a newspaper of general circulation in the county in which such work is to be performed at least once a week for three consecutive weeks. The City advertised a B&C road fund project for only two consecutive weeks per the advertising requirements of the City's Contracting and Purchasing Policy. The City will revise the Contracting and Purchasing Policy in the budget to require advertising for B&C road fund projects at least once a week for three consecutive weeks.

City Council
Staff Report

Special Events and Facilities

Author:	**Michelle Barrus, Analyst**
Subject:	**SANTY CHAIR CONTRACT**
Date:	**December 11, 2003**
Type of Item:	**Purchase Agreement**

Summary Recommendations:
Approve the purchase agreement with Irwin Seating Company in the amount of $57,318.00 to purchase new seats for the Santy Auditorium.

Description:
Topic:
Approve a purchase agreement for $57,318.00 with Irwin Seating Company.

Background:
The Park City Film Series petitioned City Council to pay for a replacement of the Chairs in the Santy Auditorium. On October 9, 2003 in City Council meeting, Council approved staff to obtain bids and bring those back to Council for approval to replace the chairs. Staff, through interpretation that the chairs are a purchase of equipment, solicited three bids, saw presentations for the different chairs, and determined the best fit for the auditorium to be the bid from The Irwin Seating Company.

Analysis:
Staff's understanding is that the Council wishes for the funds for this replacement project to come from the 5-year CIP fund. $57,318.00 would come out of the 5-year CIP and the timeline for replacement would be at the end of the winter season or the beginning of spring. $10,000 was granted towards this replacement from the Restaurant Tax Committee and that money will be acquired before any funds are utilized for this project. The actual bid is for $57,318.00, but the City will only pay $47,318.00. When the work is complete, we will be required to submit our receipts to the Summit County to account for the expenditure for those funds. The approximate time it would take to install and replace the chairs is one week. We were going to try and get the chairs in before Sundance Film Festival, however, tickets for the current capacity have already been sold therefore it would be very problematic to change the chairs prior to the festival.

The companies that submitted bids were The Irwin Seating Company, Ducharme Inc., and CCG and Howells. Two of the three companies did a formal presentation of their designs to the committee (one did not choose to participate). After much discussion it was decided to go with Irwin Seating Company. This decision was reached by using the following weighted criteria: Product quality (25%), Features (25%), Warranty (15%), Time line to meet City's need (10%) and Cost (25%).

The bid for Irwin Seating Company was $57,318, CCG and Howells was $68,502 and Ducharme bid was $78,426.

Targeted Project Completion: February 2004

Department Review: The City Manager, Legal Department, Building Department, Economic Development and Capital Projects, and Special Events and Facilities Department, have reviewed this report.

Alternatives:

Approve the Request:

Approve the purchase agreement with Irwin Seating Company in the amount of $57,318.00 to purchase chairs for the Santy Auditorium.

Deny the Request:

Deny the purchase agreement with Irwin Seating Company and the replacement of the Santy Chair.

Continue the Item:

Ask for more information regarding the replacement of the chairs.

Do Nothing:

Take no action, which would mean the Santy Auditorium Chairs would stay as is.

Significant Impacts:

By purchasing new chairs for the Santy Auditorium, it would increase the comfort level of the constituents who use that facility.

Consequences of not taking the recommended action:

The old seats in the Santy Auditorium would remain the same.

Recommendation:

Approve the purchase agreement with Irwin Seating Company in the amount of $57,318.00 to purchase new chairs for Santy Auditorium.

Attachments:

A- Letter from Summit County granting $10,000

B- Irwin Seating Company Bid

June 12, 2003

Park City Film Series
% Frank Normile
P.O. Box 2092
Park City, Utah 84060

Dear Frank,

The Board of Commissioners received the recommendation from the Restaurant Tax Committee regarding funding amounts for the applications received this year. The Commission unanimously approved the recommendation from the committee.

The funding amount granted for your application is $10,000.00. The stipulations of allocating these funds are as follows: pending Park City Municipal and other association raising $49,925.00, this $10,000.00 will be made available to meet the final dollar amount needed.

To receive the funds please invoice the Summit County Auditor's office Attn: JaNae Blonquist at P.O. Box 128 Coalville, Utah 84017. Please provide an outline of your purposed expenditures that you are requesting from the approved 2003 Restaurant Tax Grant monies.

The funds will not be released earlier than eight weeks prior to the anticipated expenditure. Any funds that have not been requested by December 31, 2004 will be forfeited.

In approximately six months the Auditor will send a follow-up letter asking how funds have been spent and utilized to date. Please be advised that you will be required to submit copies of invoices paid.

The Commission would like to thank you for your time in completing the application and for your cooperation in working through the process.

If you have any further questions please contact me at 336-3220.

Best regards,

Anita Lewis
Commission Administrator

IRWIN SEATING COMPANY
GRAND RAPIDS, MICHIGAN

PROPOSAL

To: Michelle Barrus	From: Gale Coskey
Park City Municipal Corporation	GCA, Incorporated
Phone: 435-615-5189	Phone: 801-254-5418
Fax: 435-615-4901	Fax: 801-254-5478

REFERENCE: SANTY THEATRE

We offer our quotation, based upon a quantity of 436 chairs, shipped during calendar 2003, F.O.B. destination, as follows:

#41256 IRWIN CITATION Chairs, floor mounted,
Upholstered back, 2" padding, 1-piece cover, molded plastic rear panel,
#12S Seat, Upholstered serpentine spring cushion support system, injection molded plastic foundation with glass-filled nylon seat brackets,
#56 Aisle Standard, Pedestal type, plastic laminate surfaced decorator panel,
#8C tubular welded steel center standards,
Hardwood armrests,
Fabric: Interweave (Marquesa Lana) pattern,
Standard bronze seat numbers and row letters,
A.D.A. lift-up arms - 1% included,
Attaching hardware included,
Freight to Park City, UT included,

Total material cost per chair, as described above, is in the amount of $103.50.

Total installation cost per chair on replacement product is in the amount of $14.00.

Total cost per chair for demolition and removal of existing product is $6.00.

The above pricing is based on furnishing standard IRWIN product, manufactured according to standard IRWIN methods; and special details are provided ONLY to the extent specifically listed above. Further, this quotation is subject to Irwin Standard Terms and Conditions.

City Council Staff Report

Author: Jeff Schoenbacher
Subject: SOILS ORDINANCE REVISION
Date: December 8, 2003
Type of Item: Legislative

PARK CITY 1884

DEPARTMENT NAME

Summary Recommendations:

Hold a public hearing, take public input, and consider adopting the following revisions to Park City's Landscaping and Maintenance of Soil Cover found in Chapter 15 of the Building Code 11-15-1.

Description:

Topic:

The Soils Ordinance titled "Landscaping and Maintenance of Soil Cover" found in Chapter 15 of the Building Code 11-15-1 was originally promulgated in 1988 to protect residents residing in areas that were suspect for underlying mine tailings. Since that time, analytical methods have changed as well as landscaping practices with the employment of xeriscape throughout the City. Furthermore, there is a need to continue to strive for 100% soil capping within the Original Ordinance Boundary (Prospector) in order to pursue de-listing the site from the Environmental Protection Agency's Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) database. As a result, the revision to this ordinance is intended to update and strengthen the commitment to pursuing that ultimate goal of CERCLIS de-listing.

Background:

USEPA and the UDEQ have been investigating and evaluating mine sites within the Park City area since the early 1980's. During these evaluations, Silver Creek Tailings Site now known as Prospector Square was investigated to determine the potential environmental impacts. As a result, USEPA proposed listing the Prospector Square area on the National Priorities List (NPL) in 1985. NPL listing proved to be a controversial scenario with the community, since much of Prospector Square was being developed into a residential subdivision within the City. USEPA's concerns with the development of the area were based on exposure risks of residential households within an area known to contain mine tailing waste. The hazardous constituents of concern that were known to be within the mine tailing waste are lead, arsenic, and cadmium.

The proposal to list the Site on the National Priority List (NPL) generated a great deal of controversy within the community. PCMC and most city residents were opposed to NPL listing, while EPA maintained the site should be NPL listed. Furthermore, PCMC believed the situation at Prospector presented only minimal risks and could be remedied with local corrective actions resulting in the city capping vacant properties in 1985. Also, during this time, PCMC sought congressional intervention to ensure the site was not listed on the NPL. As a result, a line item was included in the 1986 SARA amendments (Section 120 pg. 666), which removed the site from consideration from the NPL and precluded future considerations to the NPL unless significant new information was discovered. The following is the language contained within the SARA amendment:

> (p) SILVER CREEK TAILINGS.—Effective with the date of enactment
> of this Act, the facility listed in Group 7 in EPA National Priorities List Update #4 (50 Federal Register 37956, September 18, 1985), the site in Park City, Utah, which is located on tailings from noncoal mining operations, shall be deemed removed from the list of sites recommended for inclusion on the National Priorities List, unless the President determines upon site specific data not used in the proposed listing of such facility, that the facility meets requirements
> of the Hazard Ranking System or any revised Hazard Ranking System.

To allay the controversy and seek consensus based technical information regarding the situation at Prospector, PCMC, EPA, and UDEQ developed a series of scientific studies that focused on air, water, and health. These studies were very broad with ATSDR conducting the health and blood lead assessment, USEPA conducting the ambient air study, and UDEQ/USGS conducting ground and surface water quality study. While these studies were being conducted, PCMC also began developing a local ordinance to ensure effective capping of the area. These actions culminated in 1988 with two EPA letters giving qualified approval of PCMC proposal for a local ordinance and the subsequent adoption of the ordinance.

In general, the Landscaping and Soil Maintenance Cover requirements mandated a 6-inch "clean top soil" cap for the Prospector lots. Furthermore, an action level for capping a lot was established at 1000 ppm for "existing development" and "new construction" while imported fill, has an action level of 200 ppm lead. The ordinance requires the maintenance of vegetation and landscaping standards in order to preserve the cap and contain underlying mine related material. The general objective of these measures was to isolate potentially contaminated material from the surface and to minimize direct contact. Over the years, USEPA has been reluctant to fully accept the PCMC Ordinance Strategy, though EPA has consistently given qualified approval to the approach. USEPA has kept the issue under review, due primarily to concerns with the long-term commitments of the Ordinance and a lack of strong supporting data to validate the effectiveness of the Ordinance. However, in a cooperative effort, PCMC, USEPA and others are now seeking to alleviate those concerns and further strengthen the Ordinance.

Analysis:

The ordinance has done an excellent job in managing the environmental issues, however, the standards need to be updated to reflect the current analytical methods, landscaping practices, and soils management issues that exist within the soils ordinance boundary.

The following is a brief summary of the recommended changes to the ordinance:

1. Acceptable cover has been expanded from just grass cover to include the combination of an acceptable weed barrier fabric with "6 of bark or rock.
2. Prohibiting soils from being transported or allowed to be reused outside the Soils Ordinance Boundary.
3. Allowing the reuse of soils within the Soils Ordinance Boundary providing the area is capped and the Building Department pre-approves the site.
4. The boundary has been redrawn to exclude Chatham Crossing due PCMC, USEPA, and UDEQ concurring that the area does not pose a threat to human health or the environment. This was based on evaluating several years of soils data that further substantiated this claim.
5. The boundary has been expanded to include the Transit Center and the CERCLIS Marsac Mill Site. The purpose of including the Transit Center was to protect the facility and the Marsac Mill site has known elevated levels of heavy metals.
6. Property with known levels of elevated levels of lead are required to be capped after the owners receive two notices.
7. Property that has not been sampled or characterized for heavy metal levels are required to be sampled by 2006 and mitigated if levels exceed the ordinance level.
8. Non-compliance is a "nuisance" and prosecuted as a Class B Misdemeanor.

Department Review:

Proposed changes have been reviewed and approved by the Ron Ivie (Building Official), USEPA, Soils Stakeholder Group, and Park City Legal Department.

Alternatives:

Approve the Request:

By approving the request PCMC further reinforces the commitment to protect residents and the environment, while also pursuing a strategy of de-listing the site from CERCLIS.

Deny the Request:

Denying the request would jeopardize the value of the ordinance and the strategy to de-list the site from CERCLIS.

Continue the Item:

The implementation of these changes by 2004 is a proactive approach to improving the ordinance and addressing weaknesses that have been experienced by the City.

Do Nothing:

Weakens the City's strategy to address the regulatory concerns and seek acceptance and final closure to the issues addressed within the revisions.

Significant Impacts:

Lots that have not been sampled or characterized are required to do so by 2006.
Lots with known elevated levels of lead are required to cap the property after receiving two notices.

Consequences of not taking the recommended action:

Without making changes the City will not reach the final goal of de-listing Prospector from CERCLIS.

Recommendation:

Staff recommends the adoption of these revisions to further strengthen the ordinance in a manner that will assist the City in gaining regulatory acceptance and the goal of delsisting.

Ordinance No. 03-

AN ORDINANCE AMENDING TITLE 11, BUILDING AND BUILDING REGULATIONS, CHAPTER 15, PARK CITY LANDSCAPING AND MAINTENANCE OF SOIL COVER, OF THE MUNICIPAL CODE OF PARK CITY

WHEREAS, the presence of residential soils impacted with heavy metal constituents originating from historic mine tailings have been a cause for study and testing in regard to public health and environment; and

WHEREAS, the City, Environmental Protection Agency (EPA), and Utah Department of Environmental Quality (UDEQ) developed a series of scientific studies that focused on air, water, and health resulting with two EPA letters written in 1988 giving qualified approval of PCMC proposal for a local ordinance and the subsequent enacting of the ordinance; and

WHEREAS, the EPA has identified the existence of mine tailings with heavy metal constituents in the Prospector area of Park City and has made specific recommendations for mitigating any potential public health and environmental concerns; and

WHEREAS, the City Council of Park City, Utah, desires to take every reasonable and practical step to protect the health of its residents by implementing the EPA's recommendations to assure the continued health, safety, and welfare of the residents within park City.

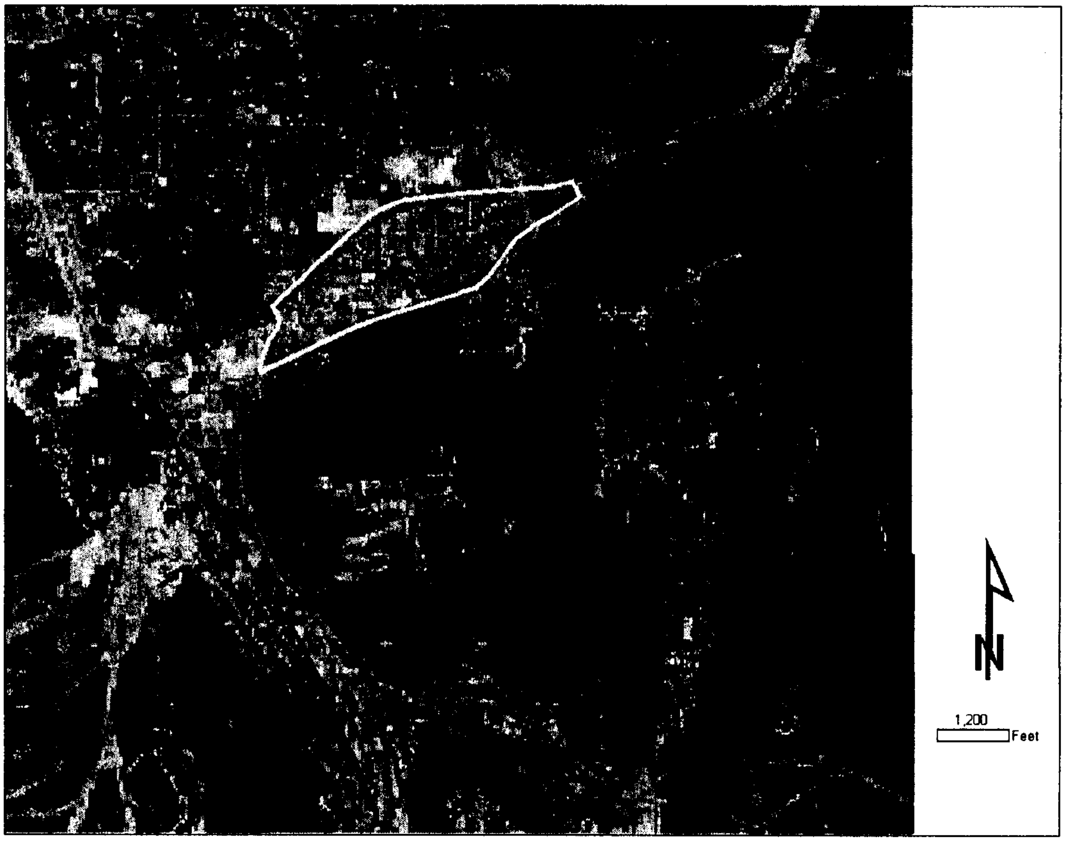
NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PARK CITY, UTAH THAT:

Section I. Amendment. Title 11, Chapter 15 of the Municipal Code of Park City is hereby amended as follows:

CHAPTER 15 - PARK CITY LANDSCAPING AND MAINTENANCE OF SOIL COVER

11-15- 1. AREA.

This Chapter shall be in full force and effect only in that area of Park City, Utah, which depicted in the map below and accompany legal description, hereinafter referred to as the Soils Ordinance Boundary.



MAP OF AREA SUBJECT TO LANDSCAPING AND TOPSOIL REQUIREMENTS
(ORIGINAL MAP ON FILE IN THE CITY RECORDER'S OFFICE) and as described as follows:

Beginning at the West 1/4 Corner of Section 10, Township 2 South, Range 4 East, Salt Lake Base & Meridian; running thence east along the center section line to the center of Section 10, T2S, R4E; thence north along the center section line to a point on the easterly Park City limit line, said point being South 00°04'16" West 564.84 feet from the north 1/4 Corner of Section 10 T2S, R4E; thence along the easterly Park City limit line for the following thirteen (13) courses: North 60°11'00" East 508.36'; thence North 62°56' East 1500.00'; thence North 41°00' West 30.60 feet; thence North 75°55' East 1431.27'; thence North 78°12'40" East 44.69 feet; thence North 53°45'47" East 917.79 feet; thence South 89°18'31" East 47.22 feet; thence North 00°01'06" East 1324.11 feet; thence North 89°49'09" West 195.80 feet; thence South 22°00'47" West 432.52'; thence South 89°40'28" West 829.07 feet; thence North 00°09'00" West 199.12 feet; thence West 154.34 feet to a point on the west line of Section 2 T2S, R4E; thence south on the section line to the southerly right-of-way line of State Route 248; thence westerly along said southerly right-of-way line to the easterly right-of-way line of State Route 224, also known as Park Avenue; thence southerly along the easterly line of Park Avenue to the west line of Main Street; thence southerly along the westerly line of Main Street to the northerly line of Hillside Avenue; thence easterly along the northerly line of Hillside Avenue to the westerly line of Marsac Avenue, also known as State Route 224; thence northerly along the westerly line of Marsac Avenue to the westerly line of Deer Valley Drive; thence northerly along the westerly line of Deer Valley Drive, also known as State Route 224, to the southerly line of Section 9, T2S, R4E; thence easterly to the west line of Section 10, T2S, R4E; thence northerly to the point of beginning.

EXCEPTING THEREFROM all lots and parcels platted as Chatham Crossing Subdivision, Hearthstone Subdivision, Aerie Subdivision and Aerie Subdivision Phase 2, according to the official plats thereof recorded in the office of the Summit County Recorder.

11-15-2. MINIMUM COVERAGE WITH TOPSOIL OR OTHER ACCEPTABLE MEDIA.

(A) All real property within the Soils Ordinance Boundary must be covered and maintained with a minimum cover of six inches (6") of Approved Topsoil and acceptable cover described in Section 11-15-3 over soils exceeding the lead levels specified in Section 11-15-7, except where such real property is covered by asphalt, concrete, ~~or~~ permanent structures or paving materials.

(B) AS USED IN THIS CHAPTER, "APPROVED TOPSOIL" IS SOIL THAT DOES NOT EXCEED 200 MG/KG (TOTAL) LEAD, REPRESENTATIVELY SAMPLED AND ANALYZED UNDER METHOD SW-846 6010.

11-15-3. ~~VEGETATION~~ACCEPTABLE COVER.

~~All areas in the Area where real property is covered with six inches (6") or more of approved topsoil must be vegetated with plant material suitable to prevent erosion of topsoil.~~

(A) All areas within the Soils Ordinance Boundary where real property is covered with six inches (6") or more of "Approved Topsoil" defined in Section 11-15-2 (B) must be vegetated with grass or other suitable vegetation to prevent erosion of the 6" topsoil layer as determined by the Building Department.

(B) Owners that practice Xeriscape are allowed to employ a weed barrier fabric if the property is covered with six inches (6") of rock or bark and maintained to prevent soil break through.

(C) AS USED IN THIS CHAPTER, "SOIL BREAK THROUGH" IS DEFINED AS SOIL MIGRATING THROUGH THE FABRIC AND COVER IN A MANNER THAT EXPOSES THE PUBLIC AND SHALL BE DEEMED IN VIOLATION OF THIS CHAPTER.

(D) AS USED IN THIS CHAPTER, "XERISCAPE" IS DEFINED AS A LANDSCAPING PRACTICE THAT USES PLANTS THAT GROW SUCCESSFULLY IN ARID CLIMATES AND A LANDSCAPING DESIGN INTENDED TO CONSERVE CITY WATER RESOURCES.

11-15- 4. ADDITIONAL LANDSCAPING REQUIREMENTS.

In addition to the minimum coverage of topsoil requirements set forth in Section 11-15-2 and the vegetation requirements set forth in Section 11-15-3, the following additional requirements shall apply:

(A) **<u>FLOWER OR VEGETABLE PLANTING BED AT GRADE</u>**. All flower or vegetable planting beds at grade shall be clearly defined with edging material to prevent edge drift and shall have a minimum depth of twenty-four inches (24") of approved topsoil so that tailings are not mixed with the soil through normal tilling procedures. Such topsoil shall extend twelve inches (12") beyond the edge of the flower or vegetable planting bed.

(B) **<u>FLOWER OR VEGETABLE PLANTING BED ABOVE GRADE</u>**. All flower or vegetable planting beds above grade shall extend a minimum of sixteen inches (16") above the grade of the six inches (6") of approved topsoil cover and shall contain only approved topsoil.

(C) **<u>SHRUBS AND TREES</u>**. All shrubs planted after the passage of this Chapter shall be surrounded by approved topsoil for an area, which is three times bigger than the rootball and extends six inches (6") below the lowest root of the shrub at planting. All trees planted after the passage of this Chapter shall have a minimum of eighteen inches (18") of approved topsoil around the rootball with a minimum of twelve inches (12") of approved topsoil below the lowest root of the tree.

11-15- 5. DISPOSAL OR REMOVAL OF AREA SOIL.

~~All soil disturbed or removed from Area, unless a representative sample tested at a State certified laboratory determines the soil is not a hazardous waste, shall be disposed of only at a facility approved by the Utah State Department of Health, or covered on site with six inches (6") of approved topsoil and re-vegetated as required by this Chapter.~~

(A) Following any work causing the disturbance of soils within the Soils Ordinance Boundary, such as digging, landscaping, and tilling soils, all disturbed soils must be collected and reintroduced onsite by either onsite soil capping specified in Section 11-15-2 or off-site disposal as required by this Chapter and/or State and/or Federal law.

(B) All soil generated from within the Soils Ordinance Boundary that cannot be reintroduced within the Soils Ordinance Boundary and are destined for off-site disposal must be sampled and characterized with representative sampling and tested at a State Certified Laboratory.

(C) Soils exhibiting a hazardous characteristic exceeding the following Toxic Characteristic Leaching Procedure (TCLP) standards, must be managed as a hazardous waste and disposed of within a Utah Department of Environmental Quality permitted facility:

Arsenic – 5.0 mg/L (TCLP) Method 6010 B

Lead – 5.0 mg/L (TCLP) Method 6010 B

(D) Soils not failing the TCLP standards be disposed within a non-hazardous landfill facility providing a "Disposal Acceptance Letter" to the Building Department by the disposal facility.

(E) No soils generated within the Soils Ordinance Boundary are allowed to be exported for use as fill outside the Soils Ordinance Boundary.

(F) Reuse of generated soils within the Soils Ordinance Boundary is acceptable provided the receiving property is covered with six inches (6") of clean topsoil or covered with an acceptable media, (i.e. vegetation, bark, rock,) as required by this Chapter.

(G) Soils that are relocated within the Soils Ordinance Boundary must be pre-approved by the Building Department before being relocated and reused.

11-15- 6. DUST CONTROL.

Contractor or owner is responsible for controlling dust during the time between beginning of construction activity and the establishment of plant growth sufficient to control the emissions of dust from any site. Due care shall be taken by the contractor or owner, to protect workmen while working within the site from any exposure to dust emissions during construction activity by providing suitable breathing apparatus or other appropriate control.

11-15- 7. CERTIFICATE OF COMPLIANCE.

(A) Upon application by the owner of record or agent to the Park City Building Department and payment of the fee established by the department, the Park City Building Department shall inspect the applicant's property for compliance with this Chapter. When the property inspected complies with this Chapter, a Certificate of Compliance shall be issued to the owner by the Park City Building Department:

(B) Verifying soil cap depth and representative samples results that are equal to or below the following standards will result in full compliance and eligibility for the certificate:

Occupied Property – Lead 200 mg/Kg (Total) Method SW-846 6010

Vacant Property – Lead 1000 mg/Kg (Total) Method SW-846 6010

11-15- 8. ~~DISPOSAL.~~TRANSIT CENTER DISTURBANCE.

~~Any work that produces excess tailings not contained on the site, according to the standards set forth in this Chapter, must have a representative sample of the soil to be transported off the site tested by a State certified laboratory to determine if it is~~

~~hazardous waste. If the excess soil is determined to be a hazardous waste, it must be transported to a disposal facility approved by the Utah State Health Department. Any work causing tailings to possibly be regenerated to the surface, such as digging, must collect and properly dispose of the tailings, either on site according to the standards set forth in this Chapter or off site as required by this Chapter and state and federal law.~~
All construction activity, utility modification, and landscaping that results in the breach of the installed protective cap or the generation of soils must be conducted in accordance to the implemented Site Management Plan, which is retained within the Building Department.

11-15- 9. ~~ENFORCEMENT.~~PROPERTY WITH KNOWN NON-COMPLIANT LEVELS OF LEAD

~~With the exception of new construction, which shall be inspected and required to comply in accordance with other City permitting and inspections, this Chapter shall be enforced through voluntary requests for inspections to obtain Certificates of Compliance. If a request is made for the Certificate of Compliance as set forth in Section 11-15-7, then the owner of the property shall be required to comply with the standards set forth in this Chapter.~~
(A) Property exceeding the lead levels defined in Section 11-15-7 that have been representatively sampled and have not been capped per Section 11-15-2 are required to comply with this Chapter by December 31st, 2004.

(B) Non-compliant lots exceeding the criteria within Section 11-15-7 will be sent two (2) warning notices in an effort to correct the non-compliance issue.

11-15-10. WELLS

All wells for culinary irrigation or stock watering use are prohibited in the Area.

11-15-11 NON-SAMPLED AND UNCHARACTERIZED LOTS.

(A) Lots that have not been characterized through representative sampling and are within the Original Soils Ordinance Boundary are required to be sampled by the year 2006.

(B) After the property has been sampled, lots exceeding the lead levels within Section 11-15-7 are required to comply with this Chapter within 12-month period.

11-15-12. FAILURE TO COMPLY WITH CHAPTER.

Any person failing to landscape, maintain landscaping, control dust or dispose of tailings as required by this Chapter and/or to comply with the provisions of this Chapter shall be guilty of a Class B misdemeanor. Any person failing to comply with the provisions of this Chapter may be found to have caused a public nuisance as determined by the City Council of Park City, and appropriate legal action may be taken against that person.

Section II. Effective Date. This Ordinance shall become effective upon publication.

City Council Staff Report

Author: Alison Butz
Subject: Watts Properties RFP
Date: December 11, 2003
Type of Item: Administrative – Review of the Watts RFPs

PARK CITY 1884
Special Events and Facilities Department

Summary Recommendations:
Conduct a public hearing and direct Staff to enter into discussions on a contract with the Bertinellis to purchase the Woodside residence and reject all other proposals. Use the money from the sale of the Woodside Residence to upgrade the National Garage and wait for the outcome of the Land Management Code discussions prior to proceeding with the sale of the Park Avenue properties. In the meantime, continue to use the Park Avenue residence as affordable housing.

Description:

Topic:
Requests for Proposals (RFP) for the Watts Properties.

Background:
With the Park Avenue property now vacant, Staff returned to Council for further direction on how to proceed with the Watts Property. The property on Woodside is currently being rented on a month-to-month lease. Since purchasing the properties, in 1997, the City has received inquiries from other entities desiring to purchase the property. In May of 2003, Council directed Staff to prepare an RFP to solicit proposals for the properties at 703 Park Avenue, 732 Park Avenue and 664 Woodside Avenue.

The following is background information on the property:

Property Name:	**Burnis Watts Garage and Houses**
Purchase Date:	1997
Purchase Price:	$920,000
Intended Use:	Historic Preservation
Current Use:	Affordable Housing
Funding Source:	Main Street RDA

The language within the RFP stated that the City is willing to discuss options for lease, lease with option to purchase, and purchase for all or a portion of the property.

The RFP was issued on August 20th and the submittals were due by October 17th. The original submittal date was extended to allow for more time for the applicants to submit the proposals and to ensure the proposals were complete.

The language within the RFP allows Council (acting as property owner) to cancel the RFP and reject any or all Proposals received; to waive any minor informality or irregularity in any Proposal received, modify or cancel in whole or in part this RFP, to modify its objectives and/or to take other actions which would ultimately satisfy the City's goals; to compare the relative merits of the respective Proposals; and to choose the Proposal which in the sole opinion of the City will best serve the interest or needs of the City.

Analysis:
The City received a total of five (5) proposals ranging from projects requesting all the properties, to just one structure. The uses also varied from residential to restaurant. A brief summary of each proposal is attached as Exhibit A.

Selection Process
A selection committee of five (5), from which members included representation from the Utah State Historical Society, a local contractor, Main Street Merchant, Park City's Chief Building Official and Park City's Economic Development Director, reviewed all proposals submitted and provide Council with a recommendation on the criteria. Each proposal was evaluated on its own merits, using the information submitted and applying the four criteria as outlined in the RFP.
The review criteria were as follows.
1. Purchase or lease price for the property
2. Proposed use and compatibility with Park City's draft Economic Development Goals
3. Proposed use and its compatibility with the surrounding neighborhood
4. Proposed historical rehabilitation of the structures

The committee had questions regarding the financial viability of the proposals as well as a clarification to the definition of compatibility. Staff provided the following clarifications.

Purchase or Lease Price – Staff clarified this to mean to include purchase or lease price within the proposal.; not to include assessment of financial viability.

Proposed Use and its Compatibility with the Surrounding Neighborhood – Compatibility should mean with the adjacent area, not just the adverse impacts (noise, parking, traffic) or lack thereof from the proposed use.

As demonstrated Exhibit B, the evaluation concluded that the Glory Hole proposal to rehabilitate the garage into a hot glass studio ranked highest among the submitted proposals. The selection committee recommends that if Council wishes to proceed with awarding all three properties, Staff should enter into discussions with the Glory Hole.

In the alternative, if the Council does not wish to further explore the Glory Hole proposal and is interested in proceeding with the release of just one of the structures, Staff recommends that Council provide direction to enter into discussions with the Bertinellis.

The Planning Department recently appeared before Council with an assessment of the importance of City owned structures. The Planning Department has identified the Watts properties as very significant to the development of the Main Street Historic District by providing an historic anchor to Lower Main Street and recommend that the Watts properties should be developed in such a way as to contribute a sense of energy and availability of to the public. The grounds, which are significant, should remain open to the public and should have some sense of historic landscape and design. These properties make a strong visual statement to the visitors of Park City that they have arrived the beginning of Park City's Historic District.

Council should further discuss the pros and cons of entering into a contract for the entire property (all three structures) or disposing portions of the property individually.

Selling off the entire property may allow for greater latitude for redevelopment options, which may allow for a broader use of options including residences. Selling off individual structures may have implications on the viability of the remaining structures. If the garage were sold separately, Staff finds that it may adversely impact the use, and hence the value of the two residences. The National Garage and Park Avenue residence may have a higher value and broader redevelopment opportunities if kept together. Conversely, if Council elects to sell the Woodside property and use the money from the sale to make necessary structural improvements to the National Garage, Staff finds the Woodside sale and use consistent with the historic use of the property. Putting the money from the sale of the Woodside property into the garage would also enhance the development potential for the National Garage and Park Avenue residence in the long term.

Three of the five (5) proposals request to purchase all three properties. While the RFP stated that proposals could include one or all of the properties, Staff's analysis of the three reveals that the proposed use and rehabilitation of the Woodside property is an afterthought.

Permitting – Further Code Review

Each of the proposals would require future reviews by the Planning Department and Building Department for compliance with applicable development codes. While each of these departments has reviewed the proposals, the selection process does not guarantee that the proposal, as submitted will be approved. The proposer will be required to submit proper applications and be reviewed for compliance with codes. The City, once Council provides direction, will begin the plat amendment process to resolve any platting issues.

Parking and MPDs

The Planning Department Staff has provided preliminary review of the proposals with regards to the zoning codes and process requirements for the uses. The matrix (Exhibit A)reviews the processes as well as mentions significant parking issues for some uses. Depending the on the proposal, parking is an issue that will need to be mitigated.

The Planning Department Staff is currently underway in processing Land Management Code amendments that would reinstate the MPD process in the Historic District. This would allow mixed-use projects, similar to those proposed within the RFP process. The amendment will also include a dialog on extending the in-lieu parking program to the HRC zone.

Department Review:

The RFPs have been reviewed by all applicable departments.

ALTERNATIVES

(1) Direct Staff to enter into discussions on a contract with the Bertinellis to purchase the Woodside residence and reject all other proposals. Use the money from the sale of the Woodside Residence to upgrade the National Garage and wait for the outcome of the Land Management Code discussions prior to proceeding with the sale of the Park Avenue properties. In the meantime, continue to use the Park Avenue residence as affordable housing.

(2) Direct Staff to enter into contract negotiations with the Glory Hole proposers to purchase all three properties.

(3) Reject all proposals.

(4) The City Council may continue the action for more information and discussion.

RECOMMENDATION:

Staff recommends Council direct Staff to enter into discussions on a contract with the Bertinellis to purchase the Woodside residence and reject all other proposals. Use the money from the sale of the Woodside Residence to upgrade the National Garage and wait for the outcome of the Land Management Code discussions prior to proceeding with the sale of the Park Avenue properties. In the meantime, continue to use the Park Avenue residence as affordable housing.

Exhibits

Exhibit A – Matrix of proposals

Exhibit B – Totals from Evaluation Sheets

EXHIBIT A
TOTALS FROM THE Evaluation SheetS for Watts Selection

Criteria	Percentage Weight	Strachan and Strachan	Roadmaster Grill	Bertinelli	Glory Hole	Micha Kapla
ase or Lease Price for operty	30%	17.4	23.4	20.4	24.6	21.6
sed Use and atibility with Park City's mic Development Goals	20%	8.8	16.4	11.6	17.2	12
sed Use and its atibility with the nding neighborhood	20%	14.8	14	17.6	15.6	5.6
sed Historical ili[illegible]on of the ures	30%	16.8	24	22.8	21	21
TOTAL	100%	57.8	77.8	72.4	**78.4**	60.2

EXHIBIT B – Summary of Proposals

Proposer	Strachan and Strachan	Roadmaster Grill	Bertinelli	Glory Hole	I
Description of Project	Rehabilitate the garage into a law office	The garage would be used as a Themed Restaurant offering lower price menus; Park Avenue residence would be used for special event dining; Woodside residence would be used as affordable housing.	Restore the Woodside home to continue to use as residential	Rehabilitate the garage into a hot glass studio for both skilled artists and classes for novices; Park Avenue residence will be used as a artists' in residence; and Woodside residence used as housing for a studio assistant	T u a v a v p F u g r e
Buildings Requested	Garage	All three buildings	Woodside Home	All three buildings	A
Proposed Use	Law Office	Restaurant	Residential	Glass Blowing Studio	E C
Use Under Zoning Code	Office	Restaurant	Residential	Art Center	E C
Complies with Zoning	Yes, CUP	Yes, CUP. Significant parking issues.	Yes	Yes, CUP. Parking issues	Y p
Plat Amendment	Yes, separate all three structures	Yes, combine all parcels	Yes, separate Woodside from Park Avenue structures	Yes, combine all parcels	Y
Price	$205,000	Current appraisal	$205,000	$920,000	$ t a
Renovation Estimate	$500,000 - $700,000	$201,400 for garage	$80,000 - $140,000	$410,366	$ g

Background	
Park Ave Zoning	HRC
Woodside Zoning	HR-1
Appraisal for Woodside	$130,000
Appraisal for Garage	$330,000
Appraisal for Park Ave House	$460,000

City Council
Staff Report

Special Events and Facilities

Author:	**Michelle Barrus, Analyst**
Subject:	**ART IN PUBLIC PLACES**
Date:	**December 11, 2003**
Type of Item:	**Legislative**

Summary Recommendations:
Review the attached revised Art in Public Places policy, and approve a resolution that adopts said policy and establishes of Public Art Advisory Board.
Description:

Topic:
Art in Public Places Policy and establishment of the Public Art Advisory Board.

Background:
City Council approved $200,000 in funds for public art projects in June of 2003. It was requested of staff to return with a policy that would help determine how the $200,000 for public art would be spent. After working closely with the Park City Summit County Arts Council, the attached policy was formulated to establish a Public Art Advisory Board who will create a strategic public art plan that would include public art policy and recommendations of expenditures of the Public Art Fund.

Some changes have been made to the original policy that appeared before City Council on November 20, 2003. These changes include specific details on the different types of members recommended to serve on the Council to include artists, business owners, and average citizens. The changes also include a name change of the Public Arts Panel to the Public Art Advisory Board to remain consistent with the other boards that serve at the discretion of the City Council. Lastly, the primary functions of the Public Art Advisory Board were made more specific as to its function and responsibilities.

Analysis:
The basis for this Public Art Policy is to establish a Public Art Advisory Board, which will be administrated by the Park City Summit County Arts Council. This Board will perform an assessment of Park City's cultural art needs, create a public art plan, procure more funds for art, establish guidelines for public art, process and review art and ultimately make recommendations to the City Council on art projects, programs and funding.

Department Review:

This policy has been reviewed by the City Manager, The Park City Summit County Arts Council, the Debt and Grants Manager, the Special Events and Facilities Department and the Legal Department.

Alternatives:

Approve the Request:

Council may choose to approve the resolution and Public Art Policy.

Deny the Request:

Council may choose to deny the approval of the resolution and the Public Art Policy and instruct staff to revise it.

Continue the Item:

Council may choose to continue the item to obtain more information, or

Do Nothing:

Council may choose to do nothing.

Significant Impacts:

Adopting this policy and resolution would be the first step in a plan to permanently ensure art in public places in Park City.

Consequences of not taking the recommended action:

It would further postpone the implementation of an Arts in Public Places Program and the use of designated funds.

Recommendation:

Staff recommends that City Council approve the resolution to adopt the Public Art Policy and subsequent establishment of the Public Art Advisory Board.

Exhibits:

A- Art in Public Places Resolution and attached policy

Resolution No. ___ -03

RESOLUTION ESTABLISHING THE PUBLIC ART ADVISORY BOARD AND A PULBIC ART POLICY

WHEREAS, Art is an integral part of the Park City community and support of public art is an established goal of the City Council, and

WHEREAS, Art is part of Park City's flare and the City has taken a more active role over the last five years to facilitate and encourage art in public places and desires to adopt a written policy for art; and

WHEREAS, It is the goal of the current City Council to make sure a cohesive plan for public art is for the future to enhance the quality of life in Park City; and

WHEREAS, Park City is committed to continuing support and development of public art; and

WHEREAS, Art should be accessible to the public, durable to the outdoor elements, safe to the public, and compatible with community standards, and

WHEREAS, the City Council set aside an additional $200,000 in appropriated Capital Improvement Program (CIP) funds for the FY 2003-2004 and FY 2004-2005 to be spent to acquire and integrate public art,

NOW, THEREFORE BE IT RESOLVED, that

SECTON 1. BOARD AND POLICY ADOPTED. The attached Arts Policy and subsequent establishment of the Public Art Advisory Board is hereby adopted on December 11, 2003.

SECTION 2. EFFECTIVE DATE. This Resolution becomes effective upon adoption.

PASSED AND ADOPTED this 11th day of December, 2003.

PUBLIC ART POLICY

PURPOSE OF THE POLICY

The purpose of this policy is to establish a process for the selection, purchase, commission, placement, and maintenance of works of art via the expenditure of the monies generated through the Public Art fund established in the Park City Municipal budget for FY 2003-04 and FY 2004-05.

INTENT OF THE POLICY

It is the stated intent of the Public Art Policy to direct the inclusion of public art in order to expand Park City citizens' experience with works of art and enable them to better understand their communities and their individual lives. By encouraging artists capable of creating works of art in public places, the Public Art Policy shall strive to stimulate the vitality and economy of the City and enhance Park City's standing as a leading cultural destination. Thus, it is the goal of the Public Art Policy to expend the funds on and facilitate works of art and art projects of redeeming quality, which advance public understanding of visual art and enhance the aesthetic quality of daily life and provide a sense of place.

GENERAL TERMS

"Public Art" means any visual work of art displayed for two weeks or more in an open city-owned area, on the exterior of any city-owned facility, inside any city-owned facility in areas designated as public areas, or on non-city property if the work of art is installed or financed, either wholly or in part, with city funds or grants procured by the city.

"Work of art" includes, but is not limited to the **art forms** of; sculpture, monument, mural, fresco, relief, fountain, banner, benches, architectural furniture, and performance art facilities. Works of art include, but is not limited to the **art mediums** of; weaving, carving, painting, assemblage, collage, welding, casting, and sculpting.

ADMINISTRATION OF THE PUBLIC ART ADVISORY BOARD AND POLICY

The Public Art Advisory Board and Public Art Policy will be administered by the Park City Summit County Arts Council for FY 2003-04 and FY 2004-05. The administration of the Public Art Board and Public Art Policy shall be a separate and additional cost to the $200,000 Public Art Fund. City Council has approved an additional $6,750 for the annual administration of the Public Art Advisory Board to be distributed to the Arts Council in monthly installments of $562.50. This would be in addition to their current service contract with the city. It is understood that with the funds the City provides for specific projects, the administrator of the funds will work to leverage funds for additional projects and works of art.

COMPOSITION AND FUNCTION OF THE PUBLIC ART ADVISORY BOARD

The Public Art Advisory Board shall have seven (7) members appointed by the City Council. Composition of the Board will include representation from the professional art community and the general public, and should consist of visual artists, performing or film artists, a design professional, an art educator, art professional, producer, designer, gallery director, or curator, and representatives from the Park City community and business community who are interested in serving on the Public Art Advisory Board. Board members shall live in Park City proper. Board members shall serve for no more than one two-year term every five years. The Special Events and Facilities Manager or her designee shall serve ex-officio without vote. It is also encouraged that students from the community be included on the panel to serve ex-officio without vote. Staggered terms shall be assigned by the City Council in the selection process.

The primary functions/responsibilities of the Public Art Advisory Board are:

1. Review a cultural assessment of the Park City cultural community.
2. Create a strategic public art plan that would include public art policy refinements and recommendations of expenditures of the Public Art Fund. Ensure that public art is safe, accessible, durable, and compatible with community standards.
3. Establish guidelines for implementation of the Public Art Policy, including methods of selecting artists and commissioning works of art. Process must be consistent with City purchasing procedures.
4. Process public art proposals submitted to Park City Municipal and make recommendations regarding appropriations for works of art and art projects to the City Manager.
5. Review, on an annual basis, the artwork projects of the Public Art Policy as a reflection of the program's intent, and recommend appropriate maintenance requirements.
6. Make recommendations for future funding of the Public Art Fund.
7. Make recommendations for the establishment of a contribution percentage for art based on construction cost of public and private development.
8. Make quarterly updates to the City Council on the progress of the Public Art Policy.

After the Public Art Advisory Board makes recommendations to City Council, the Council shall have final approval.

APPROPRIATION AND ALLOCATION OF FUNDS

~~The Public Art Advisory Board shall develop recommendations to the City Council regarding the specific allocation of the $200,000 public art fund established in July, 2003. The following are several options to be considered. Consistent with these policies, art will not be approved without review by City staff and the approval of City Council.~~

1. **"Art on the Corner" Concept:** Art on the Corner is a unique outdoor sculpture project in Grand Junction, Colorado designed to recognize the arts, develop community pride and draw people to the Main Street.

2. **Public Art at Existing Public Buildings:** City buildings may be selected for site-specific Public Art. Possible Locations are Marsac Building, Carl Winters Library and Education Center, Miners Hospital Plaza, McPolin Farm. At the Transit Center, seven of the nine muses currently exist. The infrastructure for two additional muses is in place. The Board should consider commissioning the final two muses.

3. **Art in Parks and Trails:** Art parks and art along our city trail system would enhance the value of both. Specifically along the Poison Creek Trail system that would encourage pedestrian activity from City Park to Main Street. This program could include, but not be limited to sculpture, sound gardens, Murals painted inside the 4 remaining bare tunnels, performance kiosks, etc.

4. **Specific Proposals by Artists or Purchase of Existing Art:** The Public Art Advisory Board will consider specific proposals from artists, as well as the purchase of existing work. The commission will determine policy and criteria for the selection process.

5. **Maintain and/or complete existing Public Art Property:** The existing six Public Art pieces/sites owned by Park City Municipal Corporation are in a variety of disrepair and completion. The Public Art Advisory Board should consider value and original contracts to consider investing additional funds in this inventory. This might include: completion of the Transit Center art and Poison Creek tunnel murals projects, cleaning of the Bronze Miner, and plaster/paint repair of the Swede Alley Mural.

City Council
Staff Report

PARK CITY
1884

POLICE DEPARTMENT

Author:	**Chief Lloyd Evans**
Subject:	**POLICE APPEALS COMMITTEE**
Date:	**December 5, 2003**
Type of Item:	**Discussion and Approval**

SUMMARY RECOMMENDATION:

Staff requests that City Council review the proposed changes to the Police Appeals Committee policy and procedures document and approve the draft resolution forming this Committee.

COUNCIL DIRECTION

During Council work session on November 6, 2003, Council reviewed the policy and procedures for the proposed Police Advisory Committee and provided directed to staff to adjust areas of the plan in areas such as;

- Method(s) of reporting and to whom
- Terms to be staggered
- Meeting type added for emergency
- Well publicized process
- Hot line development

ADJUSTMENT SUMMARY

The 'policies and procedures' document for the Committee, has been adjusted and revised to reflect what staff heard from Council in its review of the draft presented. As well, review by other departments, such as Executive and Legal, has added some language changes to more clearly define the City staff's role, the Committee's name, as well as its role and processes.

APPROACH

Staff has continued to approach this police community partnership with the idea of ensuring that the Committee meets the need of both the community and the police department, believing that creating a process or system that has minimal benefit would serve only to create issues rather than resolve them.

Consistent with Council direction, a scientific Citizen Satisfaction Survey was recently conducted. The survey showed that the police department has a very high approval rating, falling in the 80% range of good or excellent citizen responses. These results reinforce the approach that staff has taken toward development of this Committee and its relative functions. The name of the committee has been changed form the Police Advisory Board to the Police Appeals Committee to clearly reflect the purpose of the committee. In addition, the purpose of the committee has been narrowly defined to include appeals only.

The Legal Department has drafted a proposed resolution creating the Police Appeals Committee and establishing its structure, processes and functions. The proposed resolution also establishes the responsibilities and authority to be exercised by the Committee.

Staff would now like to review , with Council, the changes to the policy and procedures document and the proposed ordinance.

NEXT STEPS/TIME LINE

1. **Incorporate changes to document and ordinance based on Council discussions on December 11, 2003.**
2. Adoption of resolution, December 11, 2003
3. Completion of forms to be used, committee training program and hot-line established in January 2004
4. Applicant solicitation from mid January 2004
5. Interviews and selection of citizen members of the Committee and City staff member appointments in February 2004
6. Begin training of Committee members in March 2004

ALTERNATIVES

A. Approve the Request
B. Deny the Request
C. Continue the Item
D. Do Nothing

RECOMMENDATION

Staff is requesting that City Council review the changes that were made to the policy and procedures document based on Council's last discussion, validating them. As well, review the proposed resolution establishing the Police Appeals Committee, giving input on the proposed resolution. Also, staff would like council to review the time line proposed and provide comment.

PARK CITY POLICE APPEALS COMMITTEE
POLICES AND PROCEDURES
December 2003

I. Purpose

The purpose of the Park City Police Appeals Committee (Committee) is to act in the capacity of an appeals body which will review dispositions of complaints filed against police personnel and/or police procedure, if formally requested by the complainant and to provide recommendations to the Chief of Police on those complaints reviewed.

II. Organization

The Committee shall consist of five (5) members, three (3) citizens from the community at large, and two (2) City staff members consisting of the City Manager's desginee, and a City staff member of the Management Team. An attorney from the City's legal staff will be assigned to act as a legal liaison to the committee by the City Attorney. The Chief of Police shall be an ex officio member and shall provide all necessary staff support and information to the committee.

The City Manager's designee, shall act as the Chairperson for the Committee and in the absence of the Chairperson, the Chairperson pro-tem shall perform the duties of the Chairperson.

The Chairperson pro-tem shall be elected by a majority vote of the members of the Committee at the first meeting of the Committee each calendar year.

III. Appointment of Committee Members

The Mayor and City Council shall solicit applications from interested members of the community. Each applicant shall apply for a specific two (2) year term of office. Each applicant will be interviewed by the Mayor and City Council. From the interviews, the Mayor and City Council shall select the three (3) citizen members to serve and shall appoint them to the Committee.

The City Manager shall appoint his designee and the City staff management team member and said appointments may rotate as determined in the sole discretion of the City Manager.

Police officers and all other city employees of the city are ineligible for appointment to fill the citizen member positions on the Committee.

IV. Voluntary Service

Members of the Committee shall perform their services on the committee without pay or other compensation, except for payment of reimbursement of expenses actually and reasonably incurred and as approved by the Chief of Police.

Citizen members shall be deemed volunteers as defined in Title 67, Chapter 20, Utah Code Annotated, as amended, or any successor statue.

Members shall be immune from any liability with respect to any decision or action taken in the performance or their duties and responsibilities on the committee as provided by Title 63, Chapter 30b of the Utah Code Annotated, as amended, or any successor statute.

V. Term of Office

The three (3) citizen members will serve two (2) year staggered terms. One member shall initially be appointed for a one (1) year term, with subsequent appointments for two(2) years. Each member's term shall expire on the first day of March, except that a member shall serve until a successor has been duly appointed.

Members shall not serve for more than two (2) consecutive full terms.

IV. Removal from Office

Any citizen member of the Committee may be removed from the Committee by the Mayor, for cause, prior to the normal expiration of the term for which the member was appointed. Prior to a member being removed from the Committee, the member may request to have the removal reviewed by City Council for decision.

VII. Vacancy Filling

Any vacancy on the Committee shall be filled for the remaining term of the vacated member in the same manner as the member whose position has been vacated was appointed.

VIII. Members' Ethics

Members shall be subject to and bound by the provisions of the city's conflict of interest ordinance (Municipal Code of Park City Title 3). Any violation of its provisions shall be grounds for removal from the committee.

IX. Eligibility for Membership

To be eligible for appointment to the Committee, a person shall be at least 21 years of age and shall reside within the incorporated limits of Park City.

X. Training

Within three (3) months after the commencement of a member's term, each member shall receive training regarding the duties of the committee and police practices and procedures.

The Chief of Police shall specify the nature of the training and may include attendance at specific police training classes and participation in ride-along training in police vehicles during police shifts.

XI. Meeting Types

Review of Complaint Dispositions: The Committee will have regularly scheduled meetings quarterly in March, June, September and December. The committee shall meet only if there are appeals filed on complaint dispositions.

Emergency Meetings: The Chief of Police or the Committee Chair may call a meeting of the Committee if a circumstance exists in which an appeal has been requested and the complainant will be leaving the City without return or would be unavailable for an extended period of time. A minimum of seventy-two (72) hours notice will be given to the Committee members.

Meeting Location: The Committee shall meet in the City Council Chambers at City Hall unless scheduling conflicts prohibit use of the chambers. An alternative meeting site shall be announced well in advance of the meeting date.

Record of Meetings:Each meeting will be recorded by the Chief's Administrative Assistant, who will transcribe the recording and make a written record of the meetings. All proceedings of these meetings shall be classified as 'PROTECTED' and will available only to those who meet the GRAMA standard for release.

The committee meetings will not be considered open or public meetings.

XII. Quorum and Vote

All actions of the Committee shall be presented for a vote to the members. A simple majority of the voting members present at a meeting which a quorum is present shall be required for any action to be taken.

The decision of the Committee is advisory only. The Chief of Police and City Manager shall have final decision authority regarding disciplinary action against police personnel.

I. XII. Scheduled Committee Meetings

Committee meetings will be held as prescribed in the 'Meeting Types' section.

The Committee shall meet to review documents with respect to citizen complaint dispositions against police personnel and/or policy and procedures and internal police investigations and their respective dispositions if formally requested by the original complainant.

At least 10 business days prior to a Committee meeting an agenda will be provided to each member outlining the content of the meeting. Attached to the agenda will be materials for review for each agenda item if appropriate.

Members of the Committee shall treat any police documents provided as confidential at all times, including after the conclusion of a review. All protected material provided to the committee shall not be removed from the meeting room once the meeting has concluded.

Documents provided to Committee Members shall not contain the names, addresses or identifying information of individuals involved. Except during committee meetings, individuals shall not be mentioned by name in any verbal or written statements by the committee or its members.

XIV. Committee Reports

After each committee meeting a report shall be prepared highlighting the committee's findings, conclusions and recommendations regarding the agenda items discussed and acted upon.This report shall be completed within thirty (30) days after the committee meeting.

The Chief's Administrative Assistant will prepare the report for distribution. A copy of the committee's report will be provided to members of the City Council. Each committee member will also receive a copy of the committee's report.

XV. Citizen Requested Review of Complaint Disposition

The Police Department will establish and publicize the processes by which a complaint disposition can be appealed to the Committee, and further will establish a "hot-line" phone number where information can be obtained and requests for complaint disposition review can be made. Development of brochures and written publicity materials for education of the public will be undertaken. As well, media exposure outside of the written media will be undertaken.

Any person, **other than a police officer who was the subject of a complaint**, who is dissatisfied with the disposition found by the police department regarding a complaint filed against a police officer or police policies and procedures may request a review by the committee of the complaint disposition.

A request for review may be filed in one of the following ways; in written form, through the "hot-line" phone number, in person or by mail. Requests may be delivered to either the office of the Chief of Police or the office of the City Manager, or directly to a committee member.

The request must be filed within 30 days after the person's receipt of the notice of findings and disposition by the police department. Extraordinary circumstances may be exempted for this deadline in the sole discretion of the City Manager.

The request must include; (1) the name, address, and telephone number of the person requesting the review; (1A) the name, address, and telephone number of the complainant if different from the requestor; (2) the approximate date the complaint was filed (if known); (3) the substance of the complaint and any supporting documents; and (4) the reason or reasons the complainant is dissatisfied with the police department's decision.

The Chief of Police will not have a vote in the review meetings, but will act as the department liaison, available to answer questions or obtain additional information as requested by the sitting committee members.

XVI. Complaint Review Process

When a review is requested, the Chief of Police, acting in the department liaison capacity, shall supply all the sitting committee members, all pertinent documents and investigative materials related to the original complaint and investigation. Any information furnished by the complainant shall be forwarded to the committee.

All review meetings held by the Committee are confidential and closed to anyone but the committee members, and staff liason members.

Should the Committee believe it necessary to obtain additional information, facts or opinions of the investigator who conducted the investigation, a request to the Chief of Police may be made to have the assigned investigator attend the meeting to address questions relevant to the investigation.

After the review meeting, the committee shall reach a conclusion and provide an advisory recommendation. A report of the committee's conclusion(s) and recommendation(s) will be completed by staff.

Committee advisory recommendations may include; (1) further investigative action or review by the Chief of Police, to clarify and/or to expand the investigation or review; (2) review of department policy or procedure for adjustment, revision or modification; or (3) both.

The committee advisory recommendation shall not involve specific recommendations regarding discipline of individual officers or police personnel.

The Chief of Police shall ensure that the individual requesting the review and the original complainant, if they are not the same person, will be notified of the conclusion(s) and recommendation(s) of the committee and the intended actions of the Chief of Police, if known at that time.

A copy of the conclusion(s) and recommendation(s) will be forwarded to City Council members.

All committee documents will be maintained in the Administrative Offices of the Chief of Police in a secured location in accordance with Record Retention Schedules.

XVII. Cooperation and Coordination

The Chief of Police shall provide complete and prompt cooperation to the committee members in the discharge of its duties.

XVIII. Committee Actions

The recommendations of the committee shall not be deemed to bind the Chief of Police or the City Manager in their final determination.

Nothing in this document shall be construed to be a delegation of the powers of the Chief of Police, City Manager or the Mayor and City Council.

XIX. Committee Attendance

Committee members should make every effort to attend scheduled meetings. The Committee can recommend to the Chair that a member be replaced if they miss three (3) or more consecutive meetings.

XX. Committee Requests for Information

All information requests from committee members will be directed to and authorized by the Chief of Police.

Resolution No. -03

A RESOLUTION CREATING A POLICE APPEALS COMMITTEE WITHIN PARK CITY, UTAH.

WHEREAS, the Police Department is created by Municipal Code Section 2-4-13 to provide for the public safety of the residents and visitors of the City; and

WHEREAS, the City Council adopted Principles for 2003 to provide for "Cost-Effective City Services, Valued by Citizens" and "Preservation of the Park City Lifestyle with People Feeling Safe and Secure;" and

WHEREAS, the City Council adopted a Priority for 2003 to have "Open and Responsive Government to the Community;" and

WHEREAS, the City Council desires to set up a committee by which citizens may seek to appeal the disposition of complaints within the Park City Police Department; and

WHEREAS, the City Council wishes to balance the individual privacy rights of employees in personnel matters versus the public's ability to seek review of police actions; and

WHEREAS, the Citizen Satisfaction Survey demonstrated that the Police Department has a very high approval rating with the citizens of Park City, and City Council hopes that this committee will further enhance both the public's perception and confidence of the department;

WHEREAS, the committee decisions are advisory only, not administrative proceedings under UCA 10-3-703.7, and all final decision-making authority regarding any complaint remains with the Chief of Police and City Manager.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Park City, Utah that:

1. **Police Appeals Committee.** The Park City Police Appeals Committee is hereby formed in accordance with Attachment A.

Effective Date. This resolution shall be effective upon adoption.

PASSED AND ADOPTED this 11th day of December, 2003.

City Council Staff Report

Author:	**Jerry Gibbs, Director of Public Works**
	Tom Daley, Deputy City Attorney
Subject:	**Summit County Water Project**
Date:	**December 11, 2003**
Type of Item:	**Agreement**

PARK CITY
Public Works

Summary Recommendations:
Authorize the Chairman of the Park City Water Service District to sign an agreement with Weber Basin Water Conservancy District, Summit County and Mountain Regional Water Special Service District to agree to cooperate on a Summit County Water Project.

Description:

J. Topic:
Water Agreement

K. Background:
Weber Basin, Park City and the County have been discussing a water project since an MOU was signed November 27, 1996. The MOU reserved water until November 27, 2003. Weber Basin identified 5000 acre feet of water from Smith - Morehouse and other Weber Basin surface sources in addition to 1600 acre feet of underground water to be used under exchange contracts.

Reservation fees have been charged by Weber Basin for each acre foot of reserved water. If Weber Basin ultimately constructs the water importation project, reservation fees will be used by Weber Basin for design, engineering, construction and other uses related to the development of underground and surface sources.

A committee of staff members from Park City and Summit County formed in 1999 to finalize the details of an interlocal agreement. Numerous meetings were held with the county and Weber Basin. By the end of 1999 the county and the City had decided to move forward with Weber Basin in a 5000 ac-ft designed to import water from Weber Basin sources.

In 2000, the committee was increased to include two representatives from the City Council (Council members Erickson and Jones) and one representative from the county commission (Commissioner Schifferli). The county hired a water manager to help identify their needs and changed Atkinson name to Basin Regional Water Service District and later to Mountain Regional Water Special Service District. A long term look at Basin demand showed a need of 10,000 ac-ft. In February 2000 the county developed a Long Range Strategic Water Plan which called for the development of the Upper Weber River Project.

The Upper Weber River Project used a groundwater approach to meet the initial demands for the county. The surface diversion was planned in Phase IV of the Upper

Weber River Project; it would be constructed only if the wells did not produce a sufficient amount of water.

During the spring of 2002 Mountain Regional decided to pursue the Lost Creek Canyon Pipeline to convey surface water and culinary water to the Promontory area. The Project has been funded and is underway. In late 2002 the Mt Regional agreed to let the City move forward with Weber Basin on its own. The county wanted only the opportunity to rejoin the project prior to construction if Weber Basin had water available. The City did not execute this agreement.

On November 20, 2003 the City Council authorized the Mayor to sign an agreement with Weber Basin Water Conservancy District, Park City Water Service District, Summit County and Mt Regional to extend the 1996 MOU an additional six months. Weber Basin approved the agreement on November 21 and the County adopted the agreement on November 26. A final agreement between Park City Water, Summit County, Mountain Regional, Weber Basin and possibly BOR must be adopted before the reservation of Weber Basin water expires on April 30 2004

L. Analysis:

The proposed agreement provides that, Park City Water Service District, Mt. Regional Water Service District, Summit County, Weber Basin, and possibly the Bureau of Reclamation will work cooperatively on a water importation project called the " Summit County Water Project." The agreement, contingent on the BOR feasibility study, requires the parties to:

a. Work jointly on federal funding opportunities and not pursue funding that would detrimentally affect funding for the Summit Count Project.
b. Share water generated by the Lost Creek Project surplus to Promontory's needs.
c. Expand existing facilities as necessary to deliver water from the Summit County Project.
d. Enter into reciprocal wheeling agreements based on actual capacity cost.
e. Pursue a BOR/Weber Basin Project if the BOR's feasibility study identifies a recommended project.
f. Provide surplus water rights to one another.

M. Department Review:

The City Manager, Deputy City Attorney, Public Works Director and Council Members Jones and Erickson have been involved in discussion with the County over the last four years.

Alternatives:

E. Approve the Request:

Authorize the Chairman to enter into a cooperative with Weber Basin Water Conservancy District, Summit County, and Mt. Regional (Staff recommended)

F. Deny the Request:
This alternative would require us to work independently of the County and Mt. Regional to pursue with Weber Basin or other entities the importation of water to Park City.

G. Continue the Item:
The agreement could be continued for a short period of time. The value in the agreement is to formalize each agency's effort and to cooperatively pursue funding and a project.

H. Do Nothing:
This alternative would limit Park City's option to solve its long-term water needs.

Significant Impacts:
The agreement requires Park City Municipal/Park City Water and Mt. Regional/Summit County to pursue a solution(s) to each of our long-term water needs jointly.
The ability to wheel water allows each agency to move water without duplicating resources.

Consequences of not taking the recommended action:
An independent approach to federal funding could limit the amount each party is able to secure through our respective Congressional representatives.
Each agency may be required to duplicate water infrastructure at a higher unit cost.

Recommendation:
Authorize the Chairman to sign a cooperative agreement with Weber Basin Water Conservancy District, Summit County and Mt Regional.

Agreement Between Park City Water Service District, Summit County, Mountain Regional Water Special Service District, and Weber Basin Water Conservancy District Implementing the Summit County Project

This Agreement is entered into this 20th day of November, 2003, by and between Park City Water Service District, a special service district organized and existing pursuant to the provisions of Utah Code Annotated '17A-2-1301 *et seq.*, 1953, as amended **(Park City Water**), Summit County, a county and political subdivision of the State of Utah pursuant to Utah Code Annotated '17-50-1 *et seq.*, 1953, as amended, Mountain Regional Water Special Service District, a special service district organized and existing pursuant to the provisions of Utah Code Annotated '17A-2-1301 *et seq.*, 1953, as amended (**Mountain Regional**), and Weber Basin Water Conservancy District, a water conservancy district organized and existing pursuant to the provisions of '17A-2-1401 *et seq.*, Utah Code Annotated, 1953, as amended (**Weber Basin**). Park City Water, Summit County, Mountain Regional and Weber Basin are hereinafter sometimes referred to as a **Party** and collectively as the **Parties**.

WHEREAS, Park City, Summit County, Mountain Regional (as successor in interest to the Atkinson Special Service District and Basin Regional Water Special Service District) and Weber Basin entered into a certain Memorandum of Understanding and Agreement, dated November 27, 1996 (the **MOU**), which sets forth a framework for the development of a water project to deliver water, made available from Bureau of Reclamation and Weber Basin sources, for distribution within the service areas of Mountain Regional and Park City Water; and

WHEREAS, the Parties desire to move forward with the development of the **Summit County Project** and have entered into an agreement extending the 1996 MOU through April 30, 2003; and

WHEREAS, the Summit County Project will be either a project constructed by the Bureau of Reclamation (**BOR**) following a study to evaluate the feasibility of importing water into the Snyderville Basin (**Feasibility Study**) or one or more other projects constructed by Weber Basin with Park City Water and/or Mountain Regional; and

WHEREAS, since entering into the MOU, Summit County and Mountain Regional have developed the Lost Creek Canyon shallow wells and pipeline which comprise Phase I of the project described in the MOU; and

WHEREAS, the State Engineer has approved the diversion of 1,600 acre feet of water from the Lost Creek Canyon Project under Weber Basin exchange contracts; and

WHEREAS, the Parties agree that the intent and purpose of the MOU will be fulfilled by Park City Water and Mountain Regional constructing the Summit County Project to deliver water to Mountain Regional and Park City Water as provided below.

WHEREFORE, THE PARTIES AGREE AS FOLLOWS:

SECTION I. LOST CREEK CANYON PROJECT

A. Design, Construction, Ownership and Operation of the Lost Creek Canyon Project. The Lost Creek Canyon Project, which consists generally of a shallow well collection system above the Rockport Reservoir, a pump station, a twenty-four inch pipeline, a treatment plant with a capacity of three million gallons per day, and all facilities necessary to transport and deliver water from the shallow wells into the raw water reservoir and treatment plant located in the Promontory Development, shall be acquired, designed, constructed, owned, operated, maintained, repaired and replaced by Mountain Regional at its sole cost and expense.

B. Lost Creek Canyon Project Costs and Financing. All costs and expenses incurred by Mountain Regional in the development and construction of the Lost Creek Canyon Project, including, but not limited to, legal costs, easement acquisition costs, environmental costs, engineering and design costs, construction costs, including labor and materials, and debt service costs (including interest), and costs of issuance shall become a part of the Lost Canyon Creek Project and shall be financed by Mountain Regional.

C. License for Park City Water's Use of the Lost Creek Canyon Project. Mountain Regional hereby licenses to Park City Water the right to receive water developed by the Lost Creek Canyon Project as follows:

1. Park City Water shall have the right to receive thirty-eight percent (38%) of the first 1,600 acre feet of water developed by the Lost Creek Canyon Project that is surplus to Promontory's demand.

2. Park City Water shall have the right to receive up to fifty-percent (50%) of water developed in excess of 1,600 acre feet up to a maximum annual delivery to Park City Water of 2,500 acre feet.

3. The license shall be effective on the date of execution of this Agreement and shall expire at such time as the Summit County Project is capable of delivering annually to Park City Water 2,500 acre feet of water.

4. Park City Water's cost for water developed by the Lost Creek Canyon Project shall be based on thirty-eight percent (38%) of Mountain Regional's direct costs in delivering the quantity of water received by Park City Water. Park City Water anticipates the rate will include a capital cost component which will be a proportionate share of Mountain Regional's capital contribution to the Lost Creek Canyon Project.

D. Expansion of Capacity in the Lost Creek Canyon Project. The Parties agree that any necessary expansion of the Lost Creek Canyon Project will be financed by the respective Parties in proportion to the amount of water being delivered to each Party through the Lost Creek Canyon Project.

SECTION II. SUMMIT COUNTY PROJECT

A. Project Description. The Parties anticipate that the Summit County Project will consist generally of a pipeline and pump designed to deliver water from a source outside of the Snyderville Basin to the service areas of Mountain Regional and Park City Water.

1. **BOR Project. In the event the BOR concludes its Feasibility Study and is willing to construct the Summit County Project, the Parties anticipate that the BOR will design and construct the project after which it will be owned and operated by Weber Basin, Park City Water, and/or Mountain Regional. Park City Water and Mountain Regional will pay the cost of the project through water sales agreements and petitions with Weber Basin.**

2. Independent Project. In the event the Summit County Project is not designed and constructed by the BOR, the Parties anticipate that the Summit County Project may be owned and operated by Weber Basin, Park City Water, and/or Mountain Regional. Park City Water and Mountain Regional will cooperate with Weber Basin in the construction of the Summit County Project. All costs and expenses incurred by Park City Water and Mountain Regional in the development and construction of the Summit County Project, including, but not limited to, legal costs, easement acquisition costs, environmental costs, engineering and design costs, construction costs, including labor and materials, reimbursement of Weber Basin's costs, and debt service costs (including interest) shall become a part of the Summit County Project.

B. Allocation of Summit County Project Water. Subject to the terms, conditions and limitations of the water sale contracts and petitions entered into with Weber Basin, the Parties agree that Park City and Mountain Regional will enter into contracts with Weber Basin to purchase on a take-or-pay basis 2,500 acre feet each of water developed by the Summit County Project.

SECTION III. PARK CITY WATER AND MOUNTAIN REGIONAL

A. Park City Water. All facilities other than the Lost Creek Canyon Project necessary to be constructed or otherwise provided by Park City Water to receive, transport and deliver water from the Summit County Project into Park City Water's culinary and irrigation water system, shall be acquired, designed, constructed, owned, operated, maintained, repaired and replaced by Park City Water at its sole cost and expense.

B. Mountain Regional. All facilities necessary to be constructed or otherwise provided by Mountain Regional to receive, transport and deliver water from the Summit County Project into Mountain Regional's culinary and irrigation water system, shall be acquired, designed, constructed, owned, operated, maintained, repaired and replaced by Mountain Regional at its sole cost and expense. Mountain Regional agrees to assist Park City Water in obtaining easements required for the transportation of water from the Summit County Project to the service area of Park City Water.

C. Reciprocal Wheeling Agreement. Each Party agrees to allow the wheeling of water through their respective water distribution systems to the extent there is available capacity. The Parties agree to charge a wheeling fee which represents the actual cost of providing such capacity and transporting such water.

D. Areas of Cooperation. Park City Water and Mountain Regional agree to work together to maximize their effectiveness in approaching Congress and federal agencies. The Parties further agree that neither Park City Water nor Mountain Regional shall pursue alternative importation projects or funding that could jeopardize the construction or funding of the Summit County Project. The Parties further agree to coordinate their efforts with Weber Basin and to work with Weber Basin and the BOR to amend the federal enabling legislation as required for the Summit County Project.

E. Additional Water Rights. Park City Water will make available to Mountain Regional those Park City water rights that may assist Mountain Regional in expanding the use of the Lost Creek Canyon Project and/or other Mountain Regional sources.

SECTION IV. DEVELOPMENT OF OTHER SOURCE CAPACITY

The Parties acknowledge and agree that the Summit County Project will be constructed to fulfill the intent of the 1996 MOU. Accordingly, the Parties agree that the Summit County Project shall comprise Phase II of the project contemplated in the 1996 MOU.

SECTION V. INTEGRATION, TERMINATION OF MOU

This Agreement constitutes the entire understanding and agreement by and among the Parties hereto, and specifically supersedes the MOU and any and all other prior agreements, representations or understandings by and among them, whether written or oral, pertaining to the subject matter hereof. By this Agreement, the MOU is terminated and of no further force or effect.

SECTION VI. MISCELLANEOUS PROVISIONS

A. Binding Effect. The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

B. Assignment Limited. No assignment or other transfer of this Agreement or any part thereof or interest therein shall be valid unless and until approved by Weber Basin's Board of Trustees.

C. Attorney's Fees. In the event that this Agreement or any provision hereof shall be enforced by an attorney retained by a Party hereto, whether by suit or otherwise, the fees and costs of such attorney shall be paid by the Party who breaches or defaults hereunder, including fees and costs incurred upon appeal or in bankruptcy court.

D. Severability. If any term or provision of this Agreement shall, to any extent, be determined by a court of competent jurisdiction to be void, voidable, or unenforceable, such void, voidable or unenforceable term or provision shall not affect the enforceability of any other term or provision of this Agreement.

E. Captions. The section and paragraph headings contained in this Agreement are for the purposes of reference only and shall not limit, expand or otherwise affect the construction of any provisions hereof.

F. Construction. As used herein, all words in any gender shall be deemed to include the masculine, feminine, or neuter gender, all singular words shall include the plural, and all plural words shall include the singular, as the context may require.

G. Further Action. The Parties hereby agree to execute and deliver such additional documents and to take further action as may become necessary or desirable to fully carry out the provisions and intent of this Agreement.

H. Inducement. The making and execution of this Agreement has not been induced by any representation, statement, warranty or agreement other than those herein expressed.

I. Force Majeure. Performance by any Party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrections, strikes, lock-outs, floods, earthquakes, fires, casualties, acts of God, epidemics, quarantine, restrictions, inability (when the responsible Party is faultless) to secure necessary labor, materials, tools, acts or failure to act of any public or governmental agency or entity, or by any other reason not the fault of the Party delayed in performing work or doing acts required under the terms of this Agreement, and in such event, the performance of such work or the doing of such act shall be excused for the period of the delay and the period of performance for any such work or the doing of any such act shall be extended for a period equivalent to the period of such delay.

J. No Third Party Beneficiaries. This Agreement shall not be deemed to create any right in any person who is not a Party (other than the permitted successors and assigns of a Party) and shall not be construed in any respect to be a contract, in whole or in part, for the benefit of any third party (other than permitted successors and assigns of a Party hereto).

K. Warranty of Authority. The individuals executing this Agreement on behalf of the Parties hereby warrant that they have the requisite authority to execute this Agreement on behalf of the respective Parties and that the respective Parties have agreed to be and are bound hereby.

L. Termination of Agreement. This Agreement may not be terminated without the written consent of all Parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.