PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JANUARY 19, 1995

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building, 445 Marsac Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, January 19, 1995.

A G E N D A

Work Session

3:15 p.m.	Council questions and comments
3:35 p.m.	Tree program for SR224
	Review of regular meeting
3:50 p.m.	Sexually oriented business ordinance
4:10 p.m.	Licensing vending machines
4:20 p.m.	Council action on film equipment
4:35 p.m.	Other agenda questions
4:45 p.m.	Public input - procedure for adjusting lot lines

Regular Meeting

6:00 p.m.

I **ROLL CALL**

II **PUBLIC INPUT**

III **MINUTES OF MEETING OF JANUARY 5, 1994**

IV **PUBLIC HEARING**

1. Ordinance approving the amendment to the Park City Survey Plat regarding 30, 40 and 50 Sampson Avenue, Park City, Utah

2. Amendment to the Land Management Code on height restrictions in the HR-1 and HRL zones **(to be continued February 2, 1995)**

3. ADA Paratransit Plan

4. Amendment to Section 8.12 of LMC regarding home occupation business provision

V **ORDINANCES**

1. Ordinance approving the amendment to the Park City Survey Plat regarding 30, 40 and 50 Sampson Avenue, Park City, Utah

2. Amendment to Section 8.12 of LMC regarding home occupation business provision

3. Ordinance amending Title 9, Section 2-1 of the Park City Municipal Code to prohibit parking on pervious surfaces within certain areas

4. Extension of annexation approval for Hidden Meadows

5. Ordinance creating a new Chapter 9 of Title 4, Licensing, of the Municipal Code of Park City, Utah to regulate sexually oriented businesses

6. Ordinance amending the Municipal Code of Park City, Utah Title 4, Licensing, to provide a definition for arcades and a fleet fee license for amusement machines located within an arcade

VI CONSENT AGENDA

Resolution amending the business license rate table which is incorporated and adopted by reference in Resolution No. 29-94, Fee Resolution, to include fleet licensing for arcades in Park City, Utah

VII OLD BUSINESS

Clarification on the motion of January 5, 1995 for consideration of the expanded use and the purchase of film and sound equipment for the Park City Library and Education Center Auditorium in an amount not to exceed $45,000

VIII REPORTS FROM COMMISSIONS AND BOARDS

IX COMMUNICATIONS FROM COUNCIL AND STAFF

X ADJOURNMENT

Posted: 1/17/95 noon

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JANUARY 19, 1995

I ROLL CALL

Mayor Brad Olch called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, January 19, 1995. Members in attendance were Brad Olch, Ruth Gezelius, Roger Harlan, Lou Hudson, Shauna Kerr, and Leslie Miller. Staff present were Toby Ross, City Manager; Jerry Gibbs, Public Works Director; Meg Ryan, Planner; Janice Lew, Planner; and Jodi Hoffman, City Attorney.

II PUBLIC INPUT

The Mayor invited the public to comment on any matter of City business; hearing none, the public input session was closed.

III MINUTES OF MEETING OF JANUARY 5, 1995

Ruth Gezelius, "I move to approve the Minutes of the meeting of January 5, 1995 as presented". Shauna Kerr seconded. Motion carried unanimously.

IV PUBLIC HEARING

1. Ordinance approving the amendment to the Park City Survey Plat regarding 30, 40 and 50 Sampson Avenue, Park City, Utah - The Mayor requested a motion to continue to February 2, 1995. Ruth Gezelius, "I so move". Shauna Kerr seconded. Motion carried unanimously.

2. Amendment to the Land Management Code on height restrictions in the HR-1 and HRL zones **(to be continued February 2, 1995)** - Ruth Gezelius, "I move to continue this matter to February 2, 1995". Roger Harlan seconded. Motion unanimously carried.

3. ADA Paratransit Plan - Jerry Gibbs reported that under the 1992 ADA requirements, any fixed route bus system was required to prepare a Paratransit Program and every January 26 thereafter, to make any modifications to their program. In 1992, Park City had no buses that met ADA requirements and since that time, the City has purchased nine new buses that comply. There are approximately four vehicles that do not meet ADA, but two more buses will be purchased next year when federal funds are available to improve the fleet. The senior service is provided from 9 a.m. to 5 p.m. Monday through Friday. Shauna Kerr thanked Rob Christensen, Transit Director, for stepping in in a very difficult time.

With no questions or comments from the Council or the public, the public hearing was closed.

4. Amendment to Section 8.12 of the Land Management Code regarding home occupation business provision - Meg Ryan stated that the proposed change is intended to clarify the original intent of the home occupation provision which is that only persons making their home their primary residence may be employed in a business operated from that home. With no questions or comments from the Council or the public, the public hearing was closed.

V ORDINANCES

1. Ordinance approving the amendment to the Park City Survey Plat regarding 30, 40 and 50 Sampson Avenue, Park City, Utah - Ruth Gezelius, "I move that we continue this ordinance until February 2, 1995". Lou Hudson seconded. Motion carried unanimously.

2. Amendment to Section 8.12 of the Land Management Code regarding home occupation business provision - Ruth Gezelius, "I move approval of the amendment". Shauna Kerr seconded. Motion carried unanimously.

3. Ordinance amending Title 9, Section 2-1 of the Park City Municipal Code to prohibit parking on pervious surfaces within certain areas - See attached staff report. This provision appears in the Municipal Code in the Landscaping and Maintenance of Soil Cover in Title 11, but should also appear in the parking section of the Code. Ruth Gezelius, "I move approval of the ordinance amending Title 9, Section 2-1". Shauna Kerr seconded. Motion carried unanimously.

4. Ordinance creating a new Chapter 9 of Title 4, Licensing, of the Municipal Code of Park City, Utah to regulate sexually oriented businesses - See staff report. Ruth Gezelius, "I move approval of the ordinance as revised. Lou Hudson seconded. Motion unanimously carried.

5. Ordinance amending the Municipal Code of Park City, Utah Title 4, Licensing, to provide a definition for arcades and a fleet fee license for amusement machines located within an arcade - See staff report. Ruth Gezelius, "I move approval of the ordinance". Lou Hudson seconded. Motion unanimously carried.

VI CONSENT AGENDA

Ruth Gezelius, "I move approval of Consent Agenda Items 1 and 2". Lou Hudson seconded. Motion carried unanimously.

1. Resolution amending the business license rate table which is incorporated and adopted by reference in Resolution No. 29-94, Fee Resolution, to include fleet licensing for arcades in Park City, Utah - See staff report.

2. Extension of annexation approval for Hidden Meadows - See staff report.

VII OLD BUSINESS

Clarification on the motion of January 5, 1995 for consideration of the expanded use and the purchase of film and sound equipment for the Park City Library and Education Center Auditorium in an amount not to exceed $45,000 - Roger Harlan noted that the minutes accurately represent his motion and the restated motion. He added that the financial back-up information in his meeting packet of January 5 was the basis for his motion.

Joe Tesch, Arts Council member, indicated that Council's main responsibilities include the health and safety of the community and the Arts Council's goals are to enrich the lives of residents. Alternative films are one of the many things the Arts Council does and it views this project as a window of opportunity to improve the auditorium which is grossly underutilized. Five thousand dollars can be credited now to the equipment purchase rather than going to Claco in rental fees, $4,000 will be donated by the University of Utah, and a purchase will accommodate the University's film classes. He asked that this request not be granted as a favor, or on the opinion of staff, or who likes who. He disagreed that he ever made comments of a commitment of $7,500 or $9,000. The Mayor stated that Council has been dealing with the same $12,500 total figure, $5,000 from the Sundance Film Festival, and the $7,500 balance for the last several meetings. Brad Olch added that he stated at the time that the $7,500 was a thin deal, and at that meeting, Mr. Tesch responded that the numbers were very conservative and that he was convinced that the Arts Council can meet this obligation. Mr. Tesch noted that this was a miscommunication because he never honestly thought that those were good numbers. Mr. Tesch felt that Council should consider the merit of the proposal. Councilman Harlan pointed out that by Council's 4:1 vote a couple of weeks ago, that it has already supported its merit. Decisions were based on information presented by the Arts Council and based on good faith and he did not feel there was a failure to communicate because the same numbers were used at several meetings. The Mayor emphasized that the Council bought into the merit of the project but based on financial figures.

Mr. Tesch explained that the numbers changed drastically in two weeks because in the initial stages the City was going to be a partner in the project, but now has pulled out. Shauna Kerr stated that she does not recall anything in her meeting packets explaining the City's partnership interest or buy-in. Mr. Tesch commented that that was never clarified. Ms. Kerr pointed out that the Arts Council is using the City's building and the City is providing funding so a partnership entity exists and did not subscribe to Mr. Tesch's theory. Mr. Tesch argued that there was an understanding with staff that the City would be actively promoting the rental of the auditorium and money would be generated for the partnership. The Mayor commented that none of this information was discussed in the work sessions. Mr. Kerr reiterated that she understood the City's obligation in the partnership to include use of the building, fronting the money for the equipment and heating and lighting the building; she never heard a discussion about promoting or marketing or that the City would have a role in the pay-back. Mr. Tesch stated that the Arts Council has come up with a proposal that is very fair to the City; the worst that can happen is that the City will end up with property it needs anyway and the best that can happen is that the Arts Council can pay it back in four years.

Fred Hillyard, University of Utah, restated the University's commitment and will offer an academic class each quarter. They are not expecting a recovery of the $4,000; that will be accomplished through tuition and fees from the students.

Paul Sincock, Arts Council, noted that he was not involved in the prior negotiations. He stated that after the January 5 Council meeting, the contract was drafted in accordance with Jodi Hoffman's understanding of Council's directive. When the Arts Council reviewed the drafted contract, it was discovered that the way the contract is framed, not the numbers, is objectionable. After several meetings, staff suggested that the Arts Council come back to the City Council. Through illustration of exhibits, he discussed in detail the features of the new proposal. Mr. Sincock suggested amending the fee schedule for the rental of the auditorium, including rental of equipment, so that non-profits could easily afford to use it and commercial patrons would support at a higher rate. The way that the contract is currently drafted, the Arts Council is obligated to pay $250 per screening, plus the rental of the auditorium, plus $2.50 for every ticket sold over 3,000 a year. Mr. Sincock continued that that would require the Arts Council to pay the City $9,700, if it performed to the minimum standard, and recommended instead a minimum annual repayment of $4,000 per year. The Arts Council is projecting paying the City about $8,900 with the 50% profit provision, but under the current contract proposed by the City, that figure could be as much as $21,375. Basically, the terms the Arts Council is now proposing are similar to the proposed contract without the monetary figures; it suggests a rental schedule, plus 50% of the upside profits until the capital equipment is paid for. Mr. Sincock stated that the Arts Council discussed sharing all of its profits with the City although it doesn't want to be contracted for that commitment.

Ms. Gezelius pointed out that the City's expenses in heating and lighting are not really included in this proposal; Mr. Sincock responded that the rental fee schedule covers those costs. He stated that this is a no lose situation for the City. Mr. Sincock urged Council to reaffirm its commitment to purchase the equipment now and to enter into an agreement which is good for everybody and a "no risk" deal for the City.

Brian Patrick, director of the University of Utah film studies program, felt that Mr. Sincock's plan is a more reasonable approach.

Paul Sincock summarized that the Arts Council will commit for 15 days at the rental rate and commit to share 50% of the profits. The City Manager asked if the Arts Council will commit to the term it takes to pay it off. Mr. Sincock stated no, because it is the City's capital expense. He again stated that the Arts Council will commit to a $4,000 minimum repayment. The Mayor stated that he does not disagree with Mr. Sincock's numbers but he hasn't had an opportunity to really review them. To renegotiate a new proposal is not something the Council would historically do at a meeting and it is putting the Council in a difficult position. The staff and the Council have worked hard to develop figures that were felt were fair and were willing to take a risk. Mr. Olch continued that the motion was based on the numbers that were presented for a month.

Leslie Miller stated that the Arts Council group has gone beyond reason to provide information to the City Council. She objected to the assumption that when she voted January 5, that the Council had a detailed understanding of the figures that included a number of options. What is before Council now is a greater understanding and a reasonable, workable deal. She reminded everyone that this is not "our" building, but "their" building and emphasized that the Arts Council has provided Council with information that explains the need and desire of the community to have access to their public facility to view films. Ms. Miller continued that the Arts Council is not asking for hand-outs and this group is willing to help the City recover the costs of improving the facility. Ms. Miller felt that the Council should be proud of a group of citizens like this. She continued that people make mistakes and perhaps the Art Council acted too hastily in an effort to make this project happen and the Council has the authority to do right and to do anything less than what this group wants to do would be to do wrong, in her opinion. She urged Council to move forward, enthusiastically, positively, with the benefit of this community in mind to endorse this proposal.

Leslie Miller, "<u>I move that the City Council make a commitment to purchase the equipment and that we enter into a</u>

payment schedule and an agreement with the Park City Arts Council that this (Mr. Sincock's) proposal forms the basis of". Lou Hudson seconded. Shauna Kerr reported that she was the only descending member of the Council; this is the perfect example of when Council fails to follow its own process. She recognized the time and energy of the proponents but that doesn't reflect the other 5,000 residents that Council is also entrusted with the trust of public funds. Ms. Kerr emphasized that the CIP Fund is for capital improvement projects and if this had come through in the regular course of events, the controversy, confusion and problems would have been avoided. There would have only been the loss of $5,000 that would have gone to Claco, but the City has spent more than $5,000 in staff time and volunteers' time and this is why there are established processes. She did not vote for the project because of the CIP Fund process, but she does believe that the $7,500 was integral to the negotiation. Ms. Kerr felt that if the Arts Council had followed the process, the numbers would have been accurate when the application is reviewed.

Roger Harlan asked how it went so long that the numbers the Council was working with proved to be unacceptable. Joanna Charnes, Director of the Arts Council, explained that Paul Sincock was not involved in the initial stages. She stated that when the board members looked at the $7,500 number they were anxious to get this going forward; the caveat was the buy-back commitment from Claco. Ms. Charnes stated that she should take the blame for not being thorough enough or calling a board meeting. She thought that the Arts Council and City were going to negotiate a contract. When the board met, members didn't think it would work at $7,500 unless the Arts Council received credit for the Sundance Festival plus any other income generated by other rentals.

Ruth Gezelius stated that philosophically she endorses the project and has always regretted that there has been community opposition to improving and utilizing the auditorium at the time of the renovation of the Carl Winters School. She is pleased that the attitude of the community has changed. However, she is concerned that applications be processed at budget time and this is now a crisis kind of decision and the opportunity for $5,000 is not a good reason to make a decision that is not based on good fiscal and sound government business practice. Ms. Gezelius felt this should be in the July budget process and the details of the project already agreed upon. She pointed out that everyone should be on the same team and felt uncomfortable with changing the terms in mid-stream.

Leslie Miller commented that there are things in motion and the project should move forward now. Lou Hudson emphasized that the use of the facility is important to him and the City has the funds to purchase the equipment and sometimes actions occur out of a process. The Mayor requested a vote. Motion defeated.

Ruth Gezelius	Nay
Roger Harlan	Nay
Lou Hudson	Aye
Shauna Kerr	Nay
Leslie Miller	Aye

The Mayor recommended that the staff and the Arts Council work out a compromise position. There was discussion on confusion of the directive and Shauna Kerr stated that it is not the intent of the Council to oblige the Arts Council to pay the City $21,900 as Mr. Sincock pointed out could occur. She suggested that contract language could be cleaned up so that it gets back to the $7,500 figures. Jodi Hoffman, City Attorney, pointed out that staff found ways to back-out about $300 and monies attributable to rental from other organizations could be credited to the $7,500 obligation of the Arts Council. Those provisions aren't reflected in the proposed contract. Discussion ensued regarding the rental of the auditorium.

Toby Ross, City Manager, clarified that staff believed that it could reach some agreement but it did not believe it had the authority by virtue of the previous Council action simply to ignore those terms. He commented that there is about $600 that could be credited to this if the University's money is used. The Arts Council assumed the responsibility for training the projectionist at $300 which could reduce the $7,500. The Arts Council assumed the responsibility of any consultant work in the amount of $800 which could also be applied, totaling $1,700 in credits to the $7,500. He emphasized that this isn't $4,000 but it isn't $7,500 either and if there are other users, rental fees would be credited against the cap obligation of the Arts Festival. The issue of the overage was never discussed with the Council. It was devised to retire the debt earlier, but if it presents an extraordinary burden, maybe another percentage needs to be evaluated rather than 50% of the extra profit. Mr. Ross felt that the Arts Council and the City are reasonably close in terms.

Ruth Gezelius, "I move that we remand this back to staff and the Arts Council once again to further negotiate the terms of repayment of the approximate $45,000 loan that has been requested by the Arts Council and that staff report back to Council regarding the contract negotiations and that we make every attempt to facilitate a deal here". Lou Hudson seconded. Toby Ross clarified that the reporting will be informational and not scheduled as a meeting item. Mr. Ross added that there will be an expectation that figures are based on the $7,500 but that there are ways to reduce that figure by some of the things that the Arts Council has already offered together with the University of Utah, to reduce the obligation but reflects the basic concept. Mr. Ross stated that he didn't think that this would be an onerous obligation. Ms. Miller felt that there needs to be more specific parameters. Ms. Kerr reiterated features which could reduce the obligation of the Arts Council which were referred to above and noted that the Council has made some progress. Motion carried unanimously.

VIII REPORTS FROM COMMISSIONS AND BOARDS

1. Planning Commission meeting of January 11, 1995 - Meg Ryan reported on this meeting; minutes of which are available in the Planning Department.

2. Historic District Commission - Janice Lew reported that the HDC has been reviewing Burnis Watts' demolition request. A hearing was held on Tuesday and action is scheduled on February 13.

IX COMMUNICATIONS FROM COUNCIL AND STAFF

None.

X ADJOURNMENT

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

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

Prepared by Janet M. Scott

Janet M. Scott

Janet M. Scott
Deputy City Recorder

PARK CITY SUMMIT COUNTY UTAH
CORPORATE
Seal
MARCH 1, 1884

PARK CITY COUNCIL WORK SESSION
SUMMIT COUNTY, UTAH
JANUARY 19, 1995

Present: **Brad Olch, Roger Harlan, Shauna Kerr, Leslie Miller, Ruth Gezelius, Lou Hudson, Toby Ross, Jodi Hoffman, Jennifer Harrington, Mark Harrington, Nora Seltenrich, Shauna Carpenter, Bob Johnston, Roger Harlan, Ron Ivie**

Tom Clyde, Alison Child, Brent Gold, Mary Wintzer, Rick Brighton

1. **Council questions and comments.** Roger Harlan thanked the Legal Department for the litigation update. The sewer line break at the Park City Plaza was discussed; although this is a private line, the City interceded to expedite the repair. Lou Hudson reported that he is pleased with the progress of the Town Lift and noted that the Parks and Recreation Board meeting had a good turn-out.

2. **Tree Program.** Jennifer Harrington, Landscape Architect, report that about a month ago a non-profit, TreeUtah, contacted her and expressed an interest in a tree planting project along the entry corridor. The Park City Ski Area and the Eccles Family are also interested in the project. This is for Council's information.

Lou Hudson emphasized the importance of the location of the trees in relation to the sprinkler heads. Jennifer responded that the first phase will be landscaping the median where there is an installed system. The species of trees will also be explored. Mr. Hudson expressed his concern about the liability of trees in a median area. This is located in UDOT's right-of-way and will require its review and approval. Leslie Miller stated that TreeUtah is a terrific organization but asked how this project fit with other Council priorities. Shauna Kerr felt that the aspects of the project, including costs and liabilities, could be discussed at the retreat. Ruth Gezelius pointed out the problems with the Thaynes buffer strip and how those could be avoided, suggested establishing a budget for the Parks Department and working with the adjacent property owners.

Jennifer Harrington explained that TreeUtah specifically desired a project in the entry corridor on SR224 and staff suggested the median where sprinklers are already installed. Additionally, TreeUtah is doing other projects in communities associated with the Olympics, and the Mayor emphasized that if there are no Olympics, the project is still a commitment. He added that the federal government gave the city of Atlanta and surrounding communities $2.6 million for trees for enhancements for the Summer Games.

3. **Review of regular meeting:**

Sexually oriented business ordinance. Mark Harrington, Assistant City Attorney, explained that this matter has been thoroughly researched over two to three years but staff decided not to do anything because it didn't want to instigate any new types of businesses and didn't want to draw attention to the matter. Over the past 12 months, there have been several inquiries and staff has changed its position and decided to take a proactive approach in addressing this. The law states that localities cannot regulate the expressive content of sexually oriented businesses. In the ordinance these include adult theaters, bookstores, adult entertainment but does not deal with home-call service, out-call service, or escort service. There are other communities with much stricter provisions. The City can, however, regulate the secondary effects of these businesses and make sure that they have a reasonable opportunity to operate. Much of the drafted ordinance emulates state law. Shauna Kerr noted that this is a liberal interpretation; it doesn't legislate morality.

Mark Harrington pointed out changes from the draft in the packets including changing the minimum age for the owner from 18 to 21 years and other grammatical corrections. For the benefit of Lou Hudson, it was explained how the definition of adult theater is described. Roger Harlan pointed out that the recommended zoning for SOBs is the light industrial zone which is adjacent to condominiums with families. Mark Harrington explained that the locations are only recommendations which will be forwarded to the Planning Commission and City Council for a full public hearing process. Council is only dealing with the business licensing ordinance and there could be conditions attached with the conditional use permit to make sure that there is a buffer zone. Lou Hudson expressed his concern that SOB businesses not be grouped to form districts and Mark Harrington explained that there would probably be a minimum distance between each businesses to prevent that situation.

Licensing vending machines. Shauna Carpenter, Business License Administrator, explained that Fred Birch approached staff and the Council because he felt his arcade assessment was too high. She felt the recommendation meets his needs in creating a category for arcades with no alcoholic beverages and 85% of the space would be dedicated to video and entertainment machines. There would be a fleet fee where up to five machines would be assessed at $50 each and each additional machine at $15. There would be no square footage fee. Ruth Gezelius wanted to make sure that everyone is treated fairly because hardship is not really criteria for adjusting business license fees. Toby Ross stated that although hardship was cited, there really wasn't a category for arcades. Ms. Carpenter explained the research she conducted to comparing fees assesse by other communities. Ms. Carpenter mentioned that although Mr. Birch was contacted by phone, he has not responded.

Council action on film equipment. The Mayor indicated that Leslie Miller requested that there be clarification of Council's motion of January 5 with regard to approval of the purchase of the film equipment. Roger Harlan, who made the motion, stated that the minutes accurately reflect his motion and the restated motion. Leslie Miller stated that a specific amount was not identified. Toby Ross discussed that there were two meetings with the Arts Council, and the approach the Arts Council desired to take was substantially different from the proforma included in two packets. Staff didn't feel comfortable that it had the authority to negotiate those changes.

Lou Hudson expressed his position of supporting the project because of community benefit and use of the facility. He felt it appropriate to move ahead because the Film Festival has already begun; Bob Johnston explained that the equipment is installed but has not yet been purchased. Shauna Kerr pointed out that in several packets it was stated that the Arts Festival would pay back $7,500 and now it appears it can't meet that obligation. She voted against this last meeting because it violated the CIP Fund process but since there is a commitment to the loan, the issue is whether the Council is comfortable in the Arts Council paying it back on a different payment schedule. The Mayor mentioned that he made a statement previously that this was a "thin" deal, at best, at $7,500 and all of the Arts Council people testified that the pay-back could be accomplished and the Council made a motion on those numbers. Leslie Miller contended that she did not base her vote on those numbers and stated that staff put together the new proforma with options without the benefit of having Arts Council's review and the Arts Council didn't have the information at the last meeting. There are new numbers that will make sense. Bob Johnston explained that the Arts Council had the information before the Council meetings. He continued that as a result of the Arts Council Board meeting, it was determined that this level of commitment was too great. The Mayor felt it inappropriate for the Arts Council to come back for a "better deal" and Ms. Miller felt that was a misrepresentation and that they are trying to make a public facility more accessible to the community.

Roger Harlan emphasized that the motion was based on the reliability of the $7,500 figure and if the numbers have changed, that is new information. Ms. Miller stated that Council should be open to the new information if it results in a better community project and Lou Hudson agreed. Mr. Hudson pointed out that the City has the funds at this time. Ruth Gezelius stated that there was a lack of procedure and she did not want to feel pressured about making a decision when things are out of order. See regular meeting minutes.

4. Procedure for adjusting lot lines. City Attorney Hoffman stated that state law, as it relates to plat amendments, is more commonly applied that thought earlier. Salt Lake City has older and larger plats and has proposed legislation to address these problems; Park City can incorporate its concerns and that could occur by this spring. State law mandates that one can't erase lot lines without going through a formal plat amendment process. She stated that building over lot lines is a violation of the Land Management Code and Uniform Building Code because of setback requirements. The LMC can be amended for internal lot line adjustments. Applicants wouldn't have to go through a plat amendment process but lot lines would still exist. Option 1 would be a relatively easy administrative process but is not really site specific and doesn't provide the neighbors with notice. Option 1a is a similar option but provides staff with discretion to adjust setbacks and FARs (i.e., Bald Eagle - ratio for homes on two lots). Ms. Hoffman explained Option 2, where the application would only go to the City Council and not the Planning Commission, streamlining the plat amendment process. There would be site specific review of the structure, staff would have more discretion and easements could be identified. This would require an amendment to the LMC and would comply with state law.

Ron Ivie discussed problems in Old Town were there is construction over lot lines. Examples included Vie Retreat, the little red house on Park Avenue, and a situation on Rossie Hill where the owner represented that he was combining lots and after the home was built, sold one of the lots not located in the footprint. Brent Gold, attorney, pointed out that the balance of the property could have been deed restricted at the time of the building permit to prevent the sale of a lot. Ms. Hoffman responded that deed restrictions would not clean up the right-of-way issue, encroachments and still presents potential lawsuits.

Tom Clyde, attorney and former City Attorney, stated that his concern is that for many years the requirement forced owners to have an equivalent of 1.5 lots to obtain a building permit. This was accomplished in many instances with a quit claim deed and people based their expectations that that was how it was going to work. A plat note to avoid the "double dipping" of selling a lot would put a buyer on notice. Mr. Clyde is concerned about filing plat amendments in the middle of blocks where surveys don't match and the expense incurred to the owners by having to hire professionals. Going through the amendment process has great potential for creating a lot of problems that could be solved through simpler means. He felt Option 1 is preferred where the LMC is amended and the UBC in Old Town only to allow people to build across lot lines and deal with the FARs as a zoning matter. If the FARs are consumed on a lot, it would put a subsequent buyer on notice. There is fear of the discretionary process which may take months and the noticing is onerous. Shauna Kerr clarified that the FARs would be represented in some sort of recorded agreement which would be revealed in a title report. He emphasized that plat amendments could prompt boundary disputes on every application.

To the extent that Council would like to pursue the administrative lot combination option, Ms. Hoffman asked how many lots are too many to breach? Ms. Hoffman explained to Ms. Miller that there is no distinction between commercial and residential applications. Shauna Kerr felt that an "identifiable" process could be created through formulas. The City Attorney stated that there are a lot of policy issues at stake with regard to these decisions. The law, as written, does protect the public but may be too cumbersome and these options should be reviewed by the Planning Commission for a recommendation.

Alison Child commented that the reasons for this forum is compliance with state law, the lot line problems Ron addressed, and application of the FARs. She emphasized that people are fearful because there are so many unknowns and recommended amending the LMC and FARs which may take a year. She stated that she has supported every amendment to FARs and would just like to know what the rules are now, as opposed to a year from now. Ms. Hoffman reiterated the features of Option 1a. Alison Child noted that the maximum number of lots for lot combinations and house sizes can be specified in the LMC. Ms. Hoffman discussed the merits of Option 2 but Toby Ross commented that Options 1 and 1a seem to have more support. He suggested that four or fewer lots would be workable for administrative lot line combinations to determine setback and easement considerations. There should be a commitment to come back and solve FARs and the broader setback questions as soon as possible. Rick Brighton, architect, added that when there are six to eight lots, it probably would be a condo project and felt that staff should be provided discretion. He pointed out that people building one home on two lots is a good thing as people recognize that there needs to be appropriate setbacks; the focus should be on the intent and not the exceptions that may take advantage of a situation. He doesn't mind if the rules are restrictive as long as they are clear and concise and the process is easy. Ms. Child recommended that there be an "plat czar" because the process is very cumbersome, i.e. limits of disturbance. Many times the City is not getting the best outcome because the applicant does not want to go through the process. Toby Ross suggested that his could be a hearing officer. An Old Town resident complained about "unreasonable" development occurring adjacent to historic homes.

Craig Smith, former Assistant City Attorney, explained that the way we got to this process rather than the plat amendment process was that up to a few years ago it was impossible to amend a plat. Before the law was amended, applicants were required to obtain the signatures of all owners in the plat. He discussed the protection to the City that plats provide. Marianne Cone discussed the scale of homes and the public notice process. Tom Clyde pointed out that much of the discussion is going back to the land use issues, i.e. scale and setbacks, not lot lines. Mary Wintzer, resident, felt that the notification process is important. Bill Ligety commented that the process should be kept simple, supported deed restrictions, and suggested noticing for 100 feet. Alison Child felt that if people are interested in how a building will look, a simple way to accomplish that would be to require notification at the Historic District Commission level during architectural review. She is opting for clear consensus of the parameters for an application. Toby Ross suggested that an amendment to the LMC could allow people to build across lot lines through an administrative process but there could still be notice of a hearing to address easements or other kinds of things. Ms. Child felt that was reasonable.

Ms. Hoffman stated that she is hearing support for an administrative process that involves some level of public notice, that allows the breach of lot lines, with certain restrictions. She continued that that will be drafted for the Planning Commission a recommendation will be before Council in a couple of months. In the meantime, the simple lot combinations could be accommodated by that process in anticipation of those changes. Ruth Gezelius didn't feel comfortable with that and felt that a plat amendment provides more protection to owners and the City. Shauna Kerr referred to Tom Clyde's comments regarding the potential boundary disputes created by plat amendments which could be a bigger nightmare. All of the alternatives could be presented to the Planning Commission, and Ms. Hoffman stated that her concern is that she needs to enforce the law as written unless there is a consensus and other direction is provided by the Council. The Mayor suggested as an interim solution to implement an administrative process unless there was a circumstance that the City Attorney preferred Council to review. Ms. Hoffman commented that the most prudent thing to do is to streamline the amendment process (Option 2, eliminating Planning Commission approval) until other details are worked out. Shauna Kerr pointed out that in reality there will probably be only one or two applications in the interim period, which is not in the construction season. The Mayor emphasized the importance of reviewing FARs again.

Prepared by Janet M. Scott

PARK CITY
1884

COUNCIL AGENDA REPORT

DATE: January 19, 1995
DEPARTMENT: Community Development Department
AUTHOR: Janice Lew
TITLE: Amendment to Park City Survey Plat - 30, 40, and 50 Sampson Avenue
TYPE OF ITEM: Quasi-judicial

SUMMARY RECOMMENDATIONS: Adopt the ordinance approving the plat amendment for 30, 40, and 50 Sampson Avenue, to combine several lots into three larger parcels.

DESCRIPTION:

A. Topic:
PROJECT STATISTICS

Project Name:	**30, 40, 50 Sampson Avenue**
Applicant:	**Craig J. and Debra M. Schneckloth**
Location:	**Sampson Avenue**
Proposal:	**Plat Amendment**
Zoning:	**HRL**
Adjacent Land Uses:	**Historic Residential, Single-Family**
Date of Application:	**October 7, 1994**
Project Planner:	**Janice Lew**
Staff Recommendation:	**Approve with conditions**

B. Background:

This request is to amend a portion of the Park City Survey Plat along Sampson Avenue. The property consists of several Old Town lots, a portion of platted Utah Avenue which was deeded by the City to the applicants, and an historic structure (Exhibit B). The request was reviewed by the

Planning Commission on December 14, 1994. A recommendation of approval with conditions was forwarded to the City Council at that hearing.

C. Analysis:

PUBLIC INPUT

Public noticing for the City Council hearing occurred on January 9, 1995. The staff received several phone calls requesting information, but no specific comments. The Planning Commission held a public hearing on December 14, 1994 and there was no public input.

ISSUES

1. Fire Protection. Chief Building Official and Fire Marshall, Ron Ivie has consistently requested a note be attached to all new plats and lot combinations requiring both interior and exterior fire sprinkler systems for lots such as these proposed with very limited access for firefighting equipment. Mr. Ivie also is recommending a note be attached to the plat indicating wood roofs will be prohibited.

2. Site Disturbance. Because of the potential safety and traffic problems created when development occurs in areas with substandard streets, complete plans for construction staging, construction parking, grading, erosion control, and vegetation protection (Limits of Disturbance) will be required prior to individual building permit issuance for each lot.

3. Utilities. All utility and construction plans will be reviewed by the City Engineer. Water laterals must be to current City standards. Because the City has no right-of-way for Sampson Avenue, a 10 foot easement for public utilities along the front of the proposed lots will be required. An easement is currently shown on the plat for both lots 1 and 3. An easement on lot 2 will be granted to the City, if a new structure is built on the parcel. Additionally, the Snyderville Basin Sewer Improvement District requested a note be placed on the plat indicating service laterals are not available to several lots.

4. Building Size. The Planning Commission requested the applicant add a note on the plat to further limit the house size as currently permitted by the Floor Area Ratio requirements. The compatibility of new development in mass and scale with historic structures was of concern. The applicant has agreed to add this note.

DETERMINATION OF FINDINGS

1. Emergency and fire equipment access to the site is currently inadequate because of the substandard width and grade of streets and is a safety concern. The staff therefore recommends a modified 13-D sprinkler system or other system as recommended by the Fire Marshal be installed in all new construction on the three lots. Wood roofs will be prohibited to further mitigate fire hazard.

2. Development on this project will create traffic and safety impacts on the surrounding

neighborhood, therefore the staff is recommending complete plans for construction staging, construction parking, grading, erosion control, and vegetation protection (LOD) prior to individual building permit issuance for each lot.

3. The owner has agreed to dedicate a ten foot utility easement for public utilities because the City has no right-of-way for Sampson Avenue.

4. The owner has agreed to place a note on the plat regarding sewer lateral connections.

5. The proposal is consistent with both the Park City Land Management Code and Comprehensive Plan in that the HRL district allows single family homes on larger lots because of steep terrain and poor access.

6. The lot reconfiguration will reduce the density in a difficult area to develop.

7. Historic buildings are valuable assets which contribute to the distinct character of the community. It is therefore desirable to encourage new construction of residential structures which is compatible with the mass and scale of the historic context.

8. The applicant has agreed to attach a note on the plat indicating the maximum sizes of homes to 3000 square feet for Lot 1, 3500 square feet for Lot 2, and 3000 square feet for Lot 3.

CONCLUSIONS OF LAW

1. There is good cause for the amendment.

2. Neither the public nor any person will be materially injured by the proposed plat amendment.

D. Department Review:

This request has been reviewed by the Community Development Department and the City Attorney's Office.

<u>ALTERNATIVES</u>:

A. Approve the proposed amendment thereby allowing the reconfiguration of the property.

B. Deny the proposed amendment and retain the current lot configuration.

C. Continue the item and request further evaluation and recommendation from the staff.

<u>SIGNIFICANT IMPACTS</u>:

The lot reconfiguration will reduce the density in a difficult area to develop and provided access to each lot from Sampson Avenue. Impact from the proposal have been mitigated to a level of non-significance by including conditions of approval.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

If the Council chooses not to approve the plat amendment as proposed, the applicant retains the right to develop the property on the originally approved and platted lots.

RECOMMENDATION:

The Planning Commission recommends approval of the proposed amendment to the Park City Survey Plat subject to the following conditions:

1. A note shall be required on the plat indicating that a modified 13-D sprinkler system shall be required and wood roofs are prohibited.

2. Prior to individual building permit issuance, complete plans for construction staging, construction parking, grading, erosion control, and vegetation protection (LOD) shall be approved by the Community Development Department.

3. Prior to individual building permit issuance, the City Engineer shall review and approve all utility and construction plans. A ten foot public non-exclusive utility easement shall be provided along Sampson Avenue for Lots 1 and 3. The following note shall be placed on the plat in regards to Lot 2:

   "In the event the house which exists on Lot 2 as of the date this plat is recorded is demolished or lost due to fire, earthquake, or other catastrophe, the owner of Lot 2 will, as a condition precedent to rebuilding a new structure, grant to Park City Municipal Corporation a 10 foot wide non-exclusive public utility easement along and abutting Sampson Avenue."

4. Prior to plat recordation, the City Council, City Attorney, and City Engineer shall review and approve the plat.

5. All Standard Project Conditions shall apply.

6. The maximum sizes for residential structures on the lots shall be:
   Lot 1 - 3000 square feet
   Lot 2 - 3500 square feet
   Lot 3 - 3003 square feet
   An additional 400 square feet may be added to the total floor area for a garage for each lot.

EXHIBITS:

Exhibit A - Area Map
Exhibit B - Proposed Plat Amendment

PARK CITY
1884

COUNCIL AGENDA REPORT

DATE: January 8, 1995
DEPARTMENT: Community Development Department
AUTHOR: Megan B. Ryan , Tommy Youngblood
TITLE: Amendment to Section 8.12 of the Land Management Code Home Occupation Provision
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATIONS:

Hold a public hearing and approve recommended change in Section 8.12 of the Land Management Code to clarifiy the intent of the Home Occupation provision.

DESCRIPTION:

A. Topic.

The request before the Council involves an amendment to the Land Management Code, Section 8.12, Home Occupation. The Home Occupation ordinance was created to to allow residents the right to operate limited-business activities from their primary place of residence in certain zoning districts throughout the City. The business use is intended to be low impact and is to be incidental use to the primary residential nature of the building. The proposed amendment modifies the language of the ordinance in order to clarify its original intent.

B. Background.

There have been several interpretation problems between Staff and the Public over the intent of this ordinance. The current language could be intrepreted as to allow for the inclusion of off site employees at the business and for the use of the structure by non-primary residents.The proposed amendment will clarifiy the original policy intent of the ordinance. A Planning Commission recommendation is not neccessary since this proposal is non-substantive as described in Section 1.5 (a) of the Land Management Code.

Analysis
The staff believes that the proposed changes will reduce the current interpretation conflicts and allow for facilitated implementation of the ordinance.

D. Department Review.
The Community Development Department and City Attorney's office has reviewed this proposed amendment.

ALTERNATIVES

A. Deny the request for modifications and leave the Ordinance intact.
B. Approve the requested modifications to the Ordinance.
C. Continue the item for further input and analysis.

SIGNIFICANT IMPACTS:

The proposed amendments should clarify and strengthen the intent of the ordinance.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

The continued confusion over interpretation and subsequent enforcement problems will remain.

RECOMMENDATION:

Staff recommends that the City Council approve the modifications, as outlined in Exhibit A, to the Home Occupation provision, Section 8.12 of the Land Management Code.

COUNCIL AGENDA REPORT

DATE: January 8, 1995
DEPARTMENT: Community Development Department
AUTHOR: Megan B. Ryan , Tommy Youngblood
TITLE: Addition of Subsection to Title 9.2.1 of the Municipal Parking Code
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATIONS:
Approve the proposed addition to the Subsection to Title 9.2.1 of the Municipal Parking Code to prohibit parking on pervious surfaces within the area outlined in the Park City Landscaping and Maintenance of Soil Provisions - Municipal Code of Park City (&11-15-2)

DESCRIPTION:

A. **Topic.**

The proposed addition to Title 9.2.1 of the Municipal Parking Code will insert language that prohibits parking on pervious surfaces within certain areas of the Prospector Park, Prospector Village, Prospector Square, and parts of Old Town. Please see Exhibit A for affected areas.

The proposed addition will bring Title 9.2.1 in compliance with the Park City Landscaping and Maintenance of Soil Cover Provisions (MCPC &11-15-2). This ordinance was adopted in 1988 to mitigate any potential health and environmental concerns resulting from development and landscaping within this area. Recent amendments have expanded the area to include part of Old Town and were codified in into Section 11-15-2 of the Municipal Code of Park City.

B. Background.

There have been code enforcement problems with cars and trailers parking on landscaped areas within the Prospector area. Parking on impervious surfaces erodes the soil cover and presents the potential for health and safety problems. The proposed change will bring the Municipal Parking Code in compliance with the Park City Landscaping and Maintenance of Soil Cover provisions.

C. Analysis

Staff believes the proposed change will allow for more effective code implementation in the affected area.

D. Department Review.

This subject has been reviewed by the Public Safety, Community Development Department and City Attorney's office.

ALTERNATIVES

A. Deny the proposed amendment to Title 9.2.1 of the Municipal Code.
B. Approve the proposed amendment to Title 9.2.1 of the Municipal Code.
C. Continue the item for further discussion or for further information from staff.

SIGNIFICANT IMPACTS:

The proposed amendment will bring the Municipal Parking Code into compliance with the Park City Landscaping and Maintenance of Soil Cover provisions and will ensure for effective code implementation and mitigation within the affected area.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

If not approved, the Municipal Parking Code will not be compatible with Section 11-15-2, and the Prospector area will continue to experience problems with dust and tailings from parked vehicles on pervious areas.

RECOMMENDATION:

Staff recommends that the City Council approve the proposed addition to Title 9.2.1 of the Municipal Parking Code as outlined in Exhibit B.

PARK CITY 1884

COUNCIL AGENDA REPORT

DATE: January 13 for January 19th meeting
DEPARTMENT: Legal
AUTHOR: Anita Sheldon
TITLE: Extension of Time for Completion of the Hidden Meadows Annexation Agreement
TYPE OF ITEM: Administrative

SUMMARY RECOMMENDATIONS: Approve 30-day extension for completion of the Hidden Meadows Annexation plat previously approved by City Council on February 3, 1994.

DESCRIPTION:

A. Topic: The project consists of the annexation of 227.99 acres and an annexation agreement for a 44-lot single-family subdivision. The City Council considered this proposal at their January 20, 1994 meeting, when they held a hearing and received public testimony, and then again at their February 3, 1994 meeting, when the annexation was approved. (See attached copies of minutes and

B. Background: The project complied with all provisions of the Land Management Code and the City's Annexation Policy Resolution, as well as mitigated visual impacts from a previously approved subdivision. The project received considerable analysis and extensive deliberation by the applicants, Planning Commission and Planning staff in over a dozen work sessions and public hearings. The delay in completing and filing the annexation plat and agreement has been caused, in part, by a property dispute between the applicant, United Park City Mines Company, and Nadine Gillmor, who claimed to own part of the land that is being annexed. UPCM has decided to continue with the annexation while the dispute is being resolved.

D. Department Review: Reviewed by both the Legal and Planning departments.

ALTERNATIVES:

A. Approve the request: Council may approve the applicant's request for an extension of the one year time period, as requested by the applicant, in one of two ways. The request can be granted with no conditions or restrictions other than the 30-day extension.

The second option the Council could choose would be to approve the extension and re-negotiate the annexation plat and agreement with the applicant.

B. Deny the request: The Council could choose to deny the applicant's request for an extension. This would, in effect, abandon the annexation.

C. Continue the Item: Not an option as the approval would expire on February 3rd and there is no meeting between now and then.

D. Do nothing: Doing nothing would have the same effect as denying the extension.

SIGNIFICANT IMPACTS: A considerable amount of time was spent negotiating this annexation and the planning staff feels that it is a good annexation, with considerable benefit to the City. If the annexation is abandoned, the applicant would have to begin the process over again if he wanted to continue to pursue the annexation.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION: If the time period for completion of the annexation is not extended, the annexation is deemed abandoned, and the applicant would need to begin the process again.

RECOMMENDATION: Staff recommends that Council approve the 30-day extension for completion and filing of the Hidden Meadows Annexation plat and agreement.

PARK CITY 1884

COUNCIL AGENDA REPORT

DATE: 1/19/95
DEPARTMENT: **Legal**
AUTHOR: Mark Harrington
TITLE: Sexually Oriented Business ("SOB") Regulation
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATIONS: Adopt proposed ordinance which establishes new business licensing provisions for Sexually Oriented Businesses ("SOBs") and clarifies the definition of "lewdness" in the criminal code. Direct staff to forward proposed Land Management Code amendment regarding SOB zoning to the Planning Commission and schedule the proposal on the Planning Commission agenda for their consideration and recommendation.

DESCRIPTION:

A. Topic.

Sexually Oriented Business licensing and zoning.

B. Background.

The Municipal Code of Park City (MCPC) currently has no licensing provision for SOBs. Similarly, the Land Management Code (LMC) Land Use Table (§ 7.19) does not list SOBs as a permitted use within the City. The LMC expressly states that any use category not expressly permitted is deemed excluded. LMC § 7.19.2. Accordingly, staff has taken the position that SOBs are not currently permitted within the City.

There have been several inquires within the past year regarding the City's permit process for SOBs. Rather than risk an applicant's challenge to the City's policy of not allowing SOBs at all, staff feels that a better approach would be to define the parameters for and permitted locations of such businesses.

C. **Analysis**.

A municipality can regulate SOBs separately from other businesses so long as the regulation is aimed at curbing the secondary effects of SOBs, and not content of proffered speech, expression or materials of such businesses. Several cities have studied the effects of SOBs on their communities and have concluded that unregulated SOBs have had a strong negative impacts on property values, crime, and transiency. A recent study by Minneapolis and St. Paul concluded: 1) A considerable number of communities throughout the nation have studied the impacts which adult entertainments have on the areas surrounding them; 2) These studies have concluded that adult entertainment uses have an adverse impact on the surrounding neighborhoods; 3) Residential neighborhoods in proximity to adult uses suffer adverse effects including increased crime rates, lowered property values, and increased transiency; 4) Values of commercial and residential properties are diminished when located in proximity to adult entertainment businesses; 5) The impact on commercial areas is increased by the presence of more than one adult entertainment use in close proximity to another; 6) The impacts of adult entertainment on surrounding areas lessens as the distance from the business increases; 7) reasonable "time, place and manner" restrictions which address the "secondary" impacts of adult entertainment uses are constitutional.

Recent case law has held that communities may rely on studies by other communities to regulate SOBs. The study above and similar studies by Indianapolis, Indiana, Phoenix, Arizona and Seattle, Washington, have delineated the adverse secondary effects of SOBs on surrounding areas. Staff believes the conclusions of these studies apply equally to Park City. Additionally, staff has determined that several other cities, including West Valley City, have further reduced adverse secondary effects of SOBs by prohibiting alcohol on the premises.

The proposed amendment to licensing provisions of the MCPC, the Criminal Code and the proposed zoning amendment to the LMC have been drafted to curb and/or eliminate those secondary effects.

LICENSING

The first proposed ordinance (Exhibit A) amends Title 4, Licensing, of the MCPC by establishing a licensing process for SOBs and amends the Criminal Code to clarify the City's prohibition on "lewdness" applies to SOBs and other commercial businesses. The ordinance sets forth application requirements/disclosures which will enhance the City's ability to review the backgrounds of the owner(s) of SOBs. The SOB licensing ensures that an applicant has not violated SOB or related laws/ordinances within the past two years, that all fees and taxes have been paid, that the premises have been approved by the CDD building and health officials, that the applicant is over 18 years old and that the application does not contain any false statements or information. The ordinance also sets forth regulations aimed at preventing illicit activities (prostitution, etc.) associated with SOBs during the operation of SOBs. Additionally, the ordinance sets forth standards for designs of the premises which will ensure minimal neighborhood impacts of noise, visual, and illegal activity. Finally, the ordinance sets forth the criteria for license revocation and suspension.

The second section of the ordinance amends Section 8-4-20. Lewdness, of the Criminal Code. The amendment clarifies the application of the prohibition of lewdness to commercial establishments and bars.

ZONING

The second proposed ordinance (Exhibit B) amending the LMC would specify that SOBs are **conditional uses** in the Light Industrial (LI) zone (see map attached as Exhibit C) and would amend the Land Use Table accordingly. The LI zone was chosen for its location which is not near the primary tourist and residential locations in town, nor near religious or educational institutions. The proposal contemplates a full public hearing process and the Planning Commission recommendation before Council action.

D. Department Review.

The Legal Department drafted the proposals. The Community Development and Finance Departments have reviewed and endorse the proposals. The Police Department is currently reviewing the proposals.

ALTERNATIVES:

1. Adopt the proposed ordinance which adds a licensing provision for SOBs to the MCPC and forward the proposed LMC revisions for the zoning of SOBs to the Planning Commission.

2. Continue the matter on the agenda for public hearing before taking action.

3. Direct staff to continue to prohibit SOBs within the City.

SIGNIFICANT IMPACTS:

The new licensing procedure and zoning may mean the opening of a SOB within Park City. However, the zoning and conditional use process would minimize the impact of such a business and maintain the City's primary objective of keeping the secondary effects of SOBs (crime, prostitution, loitering, etc.) out of the main business, residential and tourist areas of the City. No applications will be processed until the LMC is amended to specify zoning and CU criteria. Staff will propose a Fee Resolution amendment once the LMC amendment is scheduled for Council action.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

The City may risk a challenge to its policy of excluding SOBs altogether. If successful, such a challenge may temporarily leave the City helpless in the regulation and LOCATION of SOBs.

RECOMMENDATION:

Adopt proposed ordinance which establishes new business licensing provisions for SOB and amends the Criminal Code. Direct staff to forward proposed Land Management Code amendment regarding SOB zoning to the Planning Commission and schedule the proposal on the Planning Commission agenda for their consideration and recommendation.

PARK CITY 1884

COUNCIL AGENDA REPORT

DATE: January 13, 1995
DEPARTMENT: Business Licensing
AUTHOR: Shauna Carpenter and Jan Scott
TITLE: Amendment to Business License Ordinance and Fee Resolution to create a separate category for dedicated arcades
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATIONS: Amend the Business License Ordinance and Fee Resolution to create a separate arcade definition with criteria, provide a fleet fee for electronic video games, pinball, billiard or other amusement fitting the arcade definition, and eliminate square footage assessments for arcades.

DESCRIPTION:

A. Topic. Assessment of current fee structure for licensing electronic video games, pinball, billiard or other amusement.

B. Background. Fred Birch was contacted by the Finance Department to pay his delinquent business license which included square footage, a per machine fee and concession. He strongly contested the fee due and felt he was penalized unfairly and that the fees should be waived because of the public benefit a smoke-free and alcohol-free arcade would provide for young adults and the community in general. It was explained to him that all businesses which have video, pinball and billiards are assessed the same fee based on the current rate table. He then contacted the Chamber/Bureau, the City Manager and the City Council and reiterated that his business is more of a service to the community than a profit-based business. The City Council directed staff to review this matter and provide a recommendation at its meeting of January 19, 1995.

C. Analysis. The initial fee calculations were established in 1987 are based on fees imposed by surrounding counties. This process was again performed this past week, contacting three counties with revenue-based licensing practices. The research indicates that the Park City licensing fees are not that out-of-line. Fees range from $35 to $50 per machine, with some counties charging additional fees for actual square footage and one that does not. However, staff feels that an arcade designation is reasonable,

D. Department Review. Finance, Legal and City Manager's Department.

ALTERNATIVES:

1. Add an "arcade" definition and establish and appropriate fee.
2. Reduce the fee charged per machine to $25 to $35, and continue to charge for square footage. This action will affect all businesses licensed under the current rate, requiring refunds to be issued.
3. Leave the current rate schedule in place.

CONSEQUENCES:

The community remains about activities for our youth. By not accommodating a request for a business catering to young adults may be viewed negatively.

Additionally, since this is the only business of its type in the community, an amendment to the ordinance and fee resolution would not affect other businesses who have already paid a per machine assessment and square footage fees for their particular type of business.

RECOMMENDATION:

Staff recommends that an additional code be added that would specifically deal with arcades, setting definite guidelines that would differentiate an arcade from a business who provides video games, pinball and billiards for patrons as additional entertainment (i.e., bars, hotels, 7-11, etc.).

It is recommended that an arcade must dedicate at least 85% of the square footage to games with only 15% dedicated to concession and cashiering to qualify for the arcade designation. No food preparation or alcoholic beverages may be sold. If these criteria are met, then a fee of $50 for the first five machines and $15 for each additional machine would be imposed.

PARK CITY
1884

COUNCIL AGENDA REPORT

DATE: January 17, 1995
DEPARTMENT: Leisure Services
AUTHOR: Bob Johnston
TITLE: Purchase of Film Equipment Motion Clarification
TYPE OF ITEM: Study

SUMMARY RECOMMENDATION: Consider request made by the Park City Arts Council to have City Council re-address and clarify the intent of their motion regarding the purchase of film equipment for the Park City Education Center Auditorium and financial obligation of Park City Arts Council.

DESCRIPTION:

A. Topic: Film Equipment

B. Background: The City Council, at their January 5, meeting, approved a motion to purchase film equipment to be installed at the Park City Education Center Auditorium (motion attached).

Upon review of the contract prepared by the Legal staff as instructed by Council, Park City Arts Council determined that the proposed contract did not represent the intent of the Council (contract attached). Staff has met with Park City Arts Council representatives and feels it has adequately represented Council's intent as it relates to the purchase of the film equipment and the direction to secure an obligation for operations from the Park City Arts Council. Staff has expressed to the Arts Council that it has no authority to change the terms as they have already been presented and understood b City Council.

RECOMMENDATION: Grant request and clarify motion made regarding the desired obligations and commitments from the Park City Arts Council.

Annual auditorium program budget has been attached for your review.

Kerr felt that the City would want a written agreement with them specifying what its responsibilities and liabilities are and what the City's role is and our expectations for the film process. Mr. Harlan stated that he is not opposed to having a contractual agreement in his motion. Leslie Miller pointed out that the Arts Council may have to convene to agree to enter into a contractual agreement. Ruth asked if the buy-back provision could be included in the motion.

Toby Ross restated the motion, Authorize the loan from the CIP Fund to purchase the equipment and authorize staff to enter contracts for the purchase and installation of equipment with Claco, operation of a film series with the Park City Arts Council, and assistance with the purchase from the University of Utah, DCE. The long-term contract with the Arts Council should specify its obligation for operations, renting of the equipment and auditorium, and marketing the auditorium. After one year, and in the event the Arts Council fails to meet its obligation, the Council will reconsider this program. The purchases are contingent on the Arts Council entering into a contract. Roger Harlan agreed with this restated motion. Lou Hudson seconded. Ruth Gezelius suggested that the contract specify regular reporting periods and Ms. Kerr wanted some assurance that the equipment purchased from the University becomes the City's property. Ms. Gezelius asked if Council feels comfortable with this action without the contracts before them; it was pointed out that Council will not meet for a week and this has to be accomplished by the Film Festival. Motion carried.

Ruth Gezelius	Aye
Roger Harlan	Aye
Lou Hudson	Aye
Shauna Kerr	Nay
Leslie Miller	Aye

IX RESIGNATIONS AND APPOINTMENTS

Appointment and term of Mayor Pro Tem and Alternate Mayor Pro Tem - Ruth Gezelius,, "I move that we appoint Leslie Miller as Mayor Pro Tem for the year 1995 and the Alternate Mayor Pro Tem as Roger Harlan for the year 1995". Shauna Kerr seconded. Motion carried unanimously.

X ADJOURNMENT

With no further business, the regular meeting of the City Council adjourned and a Redevelopment Agency and Municipal Building Authority meeting convened.

* * * * * *

Contract

Whereas, the Park City Arts Council (Arts Council) and the University of Utah, Division of Continuing Education requested Park City Municipal Corporation (City) to purchase film and sound equipment for the Park City Auditorium at the Library and Education Center (Park City Auditorium); and

Whereas, the Park City Council authorized a $45,000 loan from the City's Capital Improvement Program Fund (CIP loan) for the purchase and installation of film and sound equipment for the Park City Auditorium; and

Whereas, the City Council also authorized staff to enter into contracts with CLAYCO, the Arts Council, and the University of Utah for the purchase and installation of equipment and the operation of a film series; and

Whereas, the Arts Council has formally expressed its interest in entering into a long-term agreement to operate an "alternative" film series and to facilitate the City's prompt recovery of costs associated with the purchase of such sound and film equipment to support such a series; and

Whereas, the City desires to complete all necessary contracts by January 16, 1995 which requires that different agreements be prepared simultaneously even though they are interdependent;

NOW THEREFORE, the City and the Arts Council agree as follows:

1. **Term.** February 1, 1995 through July 1, 1997, subject to biannual renewal upon mutual consent of the parties.

2. **Obligation.** The Arts Council shall conduct an "alternative" film series of approximately 30 screenings per year including film and auditorium rental, promotion, collection, equipment operation, accounting and administration thereof. The Arts Council hereby commits to pay Park City a film equipment rental fee of not less than $250 per screening and not less than a total of $7,500, per annum, as follows:

FIRST QUARTER	SECOND QUARTER	THIRD QUARTER	FOURTH QUARTER
at least $1,250	a total of at least $3,000	a total of at least $5,000	a total of at least $7,500

Equipment rental fees stated above are minimum guaranteed fees, established in part on the Arts Council's projected attendance of 100 persons per event, 30 events. To the extent the actual annual attendance exceeds 3000 persons, the Arts Council shall pay the City 50% of the advertised ticket price, multiplied by the total number of attendees in excess of 3000. These additional payments shall be made by March 1 of each year.

After the first year, and any contract extensions thereafter, the rental rate may be adjusted to reflect any increase in actual City costs to facilitate the alternative film series. Such adjustment shall not be made to accelerate repayment of the CIP loan and in no case shall the rental rate be adjusted to a rate that is higher than what is charged other similarly-situated users.

The Arts Council shall enter into the City's standard Auditorium Lease for the regular use of the Auditorium, for multiple film screenings approximately two weekends per University of Utah quarter, shall comply with all reasonable regulations pertaining to the use of the facility, and shall pay to the City the normal rental fee charged to non-profit tenants (the City's lowest rental rate).

3. **Payment/Reporting.** The Arts Council will pay for the use of the Auditorium at least fifteen [15] days in advance of each scheduled screening and shall remit to the City the equipment rental fee, accompanied by an attendance report, within five [5] working days of each screening.

4. **Scale of Events.** The Arts Council hereby acknowledges that the City Council has not removed the restriction of use on the Auditorium to events with projected demand of less than 400 participants. The Arts Council must obtain prior Council approval should the alternative film series desire to attract patrons in excess of 400 persons per event. Consistent with the standard Auditorium Lease, the Arts Council shall arrange to mitigate parking demand, to the satisfaction of the City's Facility Manager, for events with projected attendance of 250 persons or more.

5. **Scheduling.** The film series is subject to usual Auditorium scheduling priorities. The Arts Council must submit a tentative annual schedule by February 1 of each year and 15 days prior to any proposed screening. Dates will be reserved only upon both payment therefor and written confirmation from the City's Facility Manager.

6. **Termination.** This agreement, and the more formal contract which will replace it, may be terminated at any time for failure of the Arts Council to meet its obligations (following notice and opportunity to correct) or after one year from the date of this agreement if the alternative film series fails to meet revenue and attendance projections.

Dated this ___ day of January, 1995.

Park City Municipal Corporation	Park City Arts Council
______________________	______________________
Toby Ross, City Manager	Who Signs?

Annual Auditorium Film Program Budget

Projected annual expenses for film equipment rental:
(The following budget projections are presented from the minimum to the most-likely results anticipated)

Capital expenditures:

Equipment ($45,000 @ 7% over 10 years)	$ 6,407
Replacement fund ($45,000 over 15 years)	$ 3,000
Total capital exp.	$ 9,407

Operations and Maintenance:

Additional staff time (1/4 day per wk @ $14)	$ 1,456
Equipment maintenance	$ 500
Training (projectionists)	$ 300
Consultant	$ 800
Total O&M	$ 3,056

Total O&M	$ 3,056
Total Cap. exp.	$ 9,407
Total film program annual expenditures	**$12,463**

(* Average cost per screening = $415)

Projected annual revenues for film series program:

Revenue scenario #1

Rentals (30 X $250)	$ 7,500
Sundance equipment rental	$ 5,000
Total film program revenues scenario #1	**$12,500**

(* Average revenue per screening = $416)

Revenue scenario #2

Rentals	$ 7,500
Sundance equipment rental	$ 5,000
*Other misc. equip. rentals ($250 X 4)	$ 1,000
Total film program revenues scenario #2	**$13,500**

(* New revenues added in this scenario; average revenue per screening = $450)

Annual Arts Council Film Program Budget

Expenditures:	
Equipment Rental ($250 X 30 screenings)	$ 7,500
Film Rentals	$ 3,750
Projectionist ($75 X 30)	$ 2,250
Marketing and Promo	$ 800
Food & Beverage (concessions)	$ 800
Auditorium Rental ($75 per day X 24 days)	$ 1,800
Total expenditures	$16,900
Revenues:	
Ticket sales (100 @ $5 X 30)	$15,000
Concessions	$ 1,600
U of U DCE lab fees	$ 1,000
Sponsorships ($500 per quarterly event)	$ 2,000
Total revenues	$19,600