PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
JANUARY 11, 2007

Present: **Mayor Dana Williams; Council members, Marianne Cone; Candace Erickson; Roger Harlan; Jim Hier; and Joe Kernan**

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Jonathan Weidenhamer, Planner; Tom Daley, Deputy City Attorney;

Laura Blake, architect; and Rory Murphy, Board Member, Historical Society; Jenny Smith, PCMR; and Mike Sweeney, business owner

1. Citizen satisfaction survey prize drawing. The Mayor and each Council member drew a name of a respondent eligible for a prize for participating in the survey.

2. Council questions and comments. Joe Kernan asked that citizen survey goals for 2009 be included as a topic at the visioning session. He shared a table he designed to illustrate the benefits of CO^2 reduction per dollar spent on green initiatives and discussed potential savings with using alternative modes of transportation, buying wind power, promoting recycling, etc. This analysis can be used to prioritize sustainability projects. Marianne Cone discussed the *Save the Road's* participation in the walk-ability study and the *Save Our Snow* presentation at the Eccles Center. Candace Erickson commended the Public Works Department for cleaning up the mess on sidewalks caused by UDOT after clearing snow on SR224. Roger Harlan reported on the School Board meeting where the compensation package for the new superintendent, mutual transportation issues, and the Red Maple Parcel were discussed. Jim Hier spoke about the Park City Heights Annexation Task Force meeting where an updated traffic study was reviewed, specifically improvements to the SR248 corridor. He attended the police meeting where improving the level of snow removal services on Priority 1 streets for officers was discussed.

Mayor Williams stated that he attended the 20th anniversary of the Soaring Wings Montessori School and spoke about posting the Sandridge Lot with clearer parking regulations. He highlighted ideas from the *Save Our Snow* community meeting, including mandatory green building and suggested installing more bus shelters throughout town to encourage the use of public transportation. Jim Hier commented that bus shelters will be included in the updated transportation plan.

3. Review of regular meeting:

Historical Society application for museum expansion and remodel. Jonathan Weidenhamer explained that about two years ago, the Historical Society signed a 99 year lease for the Old City Hall Building and is moving forward with its expansion plan for the museum. This will involve an amendment to the existing lease agreement, a subdivision plat to expand the building on City property, Historic District design review, and a CUP for the use itself. The museum expansion from 8,300 to about 13,000 square feet is intended to accommodate exhibit space, education programs, revolving gallery space, and a gift shop. He explained that Council must affirm this plan before regulatory processes proceed. There are a number of concerns identified in the staff report addressing the design, pedestrian link and general bulk and massing of the addition. Staff's recommendation is to authorize consent to the applications.

Laura Blake, architect, through illustration of slides, stated that her charge is to preserve the Old City Hall, the Whistle Tower and the Old Library and to rehabilitate these three buildings to a minimal amount to meet the needs of the museum. The current museum only has about 1,500 square feet of exhibit space and there are large artifacts in storage. The plan is to preserve the front facades of all buildings and to construct an addition on the back facing Swede Alley, which she believes makes the walkway connection to Main Street more prominent. She pointed out that all three buildings are different dimensions and in order to meet accessibility and vertical circulation requirements, Ms. Blake explained the main spine and design concept. Building materials will be compatible and contextual and the mine elevator will be located on the exterior of the back of the museum. Both the City Hall and Old Library rear facades will be preserved and become part of the interior of the addition. Board member Rory Murphy acknowledged negative comments about the design of the addition. He assured Council that it is not the intent of the Board to push a design the public does not like; the Board will continue to fine tune the design as the process moves along.

Marianne Cone stated that she was the Director of the museum for ten years and loves the building. She feared that the proposed design does not send the message that we value preservation, acknowledging the museum's need for space. Candace Erickson felt that the addition looks too much like a warehouse at this point; there is no break in the solid brick façade. The three buildings are different heights and configurations which make the space interesting from the perspective of Swede Alley and there is enough room for landscaping. She felt it important that the public restrooms be located there. Roger Harlan believed the design of the back brick wall could be improved and commented on advice rendered by the Historic District consultants on the inventory a couple of weeks ago. He personally felt that this project may compromise historic preservation in our town. While understanding the challenges in displaying large exhibits, he questioned whether the trade-off for more display area is worth the loss. Joe Kernan believes that the project requires a higher level of scrutiny because these are City-owned buildings. He also agreed that current space in Swede Alley is more inviting than the proposed design. Jim Hier agreed that the City would be losing a plaza space with the expansion and didn't believe the design makes the walkway more visible. He suggested that the uphill building be stepped toward Main Street, acknowledging that there will be loss of space. Mayor Williams noted that he likes saving the back facades of the Old Library and Old City Hall Buildings within the new addition. He was surprised by the boxy design and felt that the charm of the buildings is being lost in exchange for square footage. The Mayor invited public input.

Gordon Strachan, 15 year tenant in Old City Hall Building, stated that the design is *terrible* and not unlike the back of a Wal-Mart. He wholly supports the museum's expansion and encouraged exploring under-grounding exhibit space and emphasized the visibility of the buildings and plaza area from the Transit Center. This is not what the City's property should be and could be an embarrassment to the next generation. He reiterated that this is a terrible idea which should not be approved.

A request was made after the work session to remove this item from the Consent Agenda tonight and continue it to a future meeting.

Statutory appointments. The City Manager explained that appointments are requested for COSAC III, Mayor Pro Tem, Alternate Mayor Pro Tem and ETDAB. Marianne Cone and Jim Hier offered to serve again on ETDAB as did Joe Kernan, who served as an Alternate member. It was decided to appoint Marianne Cone as Mayor Pro Tem and Roger Harlan as Alternate Mayor Pro Tem. Mayor Williams explained that he and Jim Hier selected applicants and are recommending these appointments for consideration by the Council. Marianne Cone expressed her support of the choices and was pleased with the level of interest. There was discussion about the size and strength of the membership of COSAC.

UPCM/PCMR Annexation Agreement. Mayor Williams brought up a fourth option for water which he and Deputy City Attorney Tom Daley discussed earlier today. The City Manager noted that staff met this morning and agrees on the recommendation that the discharge permit be the responsibility of the mining company. Dana Williams stated that he is comfortable with the Iron Canyon conservation easement language. He understood that criteria for establishing associated responsibility for the discharge permit relates to the level of involvement in the tunnel.

Tom Daley referred to the fourth option by explaining that the third option is approving the Agreement without a water section. If the Judge Tunnel discharge permit is the only remaining issue, the balance of the water agreement section could be included with the permit issue being silent. He stated that this is not staff's recommendation and although the law is clear, the facts are not. The City developed 1,200 feet of tunnel 30 years ago which represents a small portion of the mine workings. The impacts of construction, diversion of flows, and water quality all need to be determined before the law is applied to this situation. It is the City's hope to continue to work with Talisker on the discharge permit issue. If there is no agreement, another alternative is shifting water not used in our municipal system to JSSD, however, this process could take up to two to three years.

Jim Hier suggested that there be some cost-sharing with Talisker for construction of the road to the park and ride. He added that the staff reports indicates that within 18 months of the annexation, the 20 affordable units will be built, but he felt the timing could be better defined by tying it to issuance of an occupancy permit. He is comfortable with the rationale for the square footage for Beano's. Mayor Williams stated that he spoke with Talisker about the look of the park and ride at Richardson's Flats. He emphasized that EPA's approval is needed for this site and discussed green building standards for parking lots which he would like memorialized in the Agreement. Jim Hier stated that until he sees the final Annexation Agreement in writing, he can not approve it. Roger Harlan referred to the issue of fairness with regard to Talisker's five-year offer to cover PCMR's increased costs. Jenny Smith, PCMR, happily reported that they are very close to resolution on this issue and stated her appreciation Mr. Harlan's comments.

There was discussion about Beano's being a private club; the location has not yet been determined. The project will need to go through the Planning Commission for a CUP. Marianne Cone brought up security and lighting at the park and ride, and Brooks Robinson personally believed that there is no correlation with increased lighting decreasing crime. In response to a comment made by Ms. Cone regarding the feasibility of a gondola in 20 years, Mr. Robinson felt that there could be a partnership between the City and Deer Valley if there is mutual interest. Candace Erickson expressed that she has always been skeptical of the low numbers in the traffic study. She suggested that if real volumes exceed estimates by a certain percent, that it triggers something. Marianne Cone felt that a one-way could be triggered up the Mine Road and down Royal Street. Mayor Williams interjected that it may be difficult to determine where traffic is coming from because at some point in time, there will be year-round access from Brighton Estates. Ms. Erickson stated that in her mind, access to Brighton Estates is possible because of this development and Marianne Cone felt that the number of trips from the hotel to Old Town will have a huge impact. Joe Kernan felt that good work has been done on the park and ride but the feasibility of a gondola is unknown. One benefit of a gondola may be its carbon footprint compared to other forms of public transportation. He described various detailed scenarios attracting people to use the gondola, including not only skiers, but residents and visitors traveling to and from Deer Valley to the Main Street core. Mr. Kernan spoke about the $280 per hour needed to operate the gondola but the potential use could well justify the cost. A gondola may be economically feasible when compared to our bus system and may save greenhouse gases. The original Development Agreement included a gondola. The cost to construct a gondola will increase in the future and he believes Talisker has the resources to cover associated costs. The Mayor explained that the current Annexation

Agreement does not address the gondola and a majority of Council members will have to support the concept to introduce it again.

Mr. Kernan asked about the numbers for the Town Lift. Mike Sweeney, business owner, explained that the lift runs at a maximum capacity of 1,100 riders per hour. Although not operating at capacity, there has been about an 18% increase in rider-ship each year over the past several years. He stated that the Sweeney Family has committed $2 million to a gondola sometime in the future if it is determined by PCMR to construct a gondola to Old Town. See regular meeting minutes.

Prepared by Janet M. Scott, City Recorder

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JANUARY 11, 2007

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, January 11, 2007. Members in attendance were Dana Williams, Marianne Cone, Candace Erickson, Roger Harlan, Jim Hier, and Joe Kernan. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Kent Cashel, Assistant Public Works Director; Brooks Robinson, Planner; Ray Milliner, Planner, Katie Cattan, Planner; Patrick Putt, Planning Director; and Tom Daley, Deputy City Attorney.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

1. City Council disclosures - Candace Erickson stated that she is employed by Park City Mountain Resort and her husband does some consulting for a firm doing work for Talisker. Joe Kernan disclosed that Royal Street, Deer Valley, Talisker, PCMR and USSA are among his recycling customers. Jim Hier stated that his wife works for PCMR.

2. SR248 traffic task force – Kent Cashel referred to the joint meeting with the School District to discuss traffic issues on SR248 where one outcome was to form a task force represented with members from both groups. Jim Hier and Roger Harlan were appointed and Joe Kernan as an Alternate member of the task force.

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

1. Save Our Snow community meeting - Mike Sweeney, business owner, stated that he attended the *Save Our Snow* meeting this week and thanked Mayor Williams for his ability to communicate Park City's commitment to sustainability.

2. Board of Realtors Environmental Issues Committee – David Grover distributed a letter written by Sharon Woodbury of the Board of Realtors regarding curbside recycling. He reported that the residents and businesses of Summit County generate approximately 97,500 tons of solid waste per year, which is well above the national average. Since 1994, Summit County's full-time population has grown by 100% and in the same amount of time, the landfill has grown by 264% and will reach capacity within the next ten years at a cost of $3 to $4 million to taxpayers. He noted that despite the best efforts of individual residents to recycle, nearly 90% of all municipal solid waste ends up in the landfill. The Board's goal is to realize 100% curbside recycling service throughout the County and this letter has also been sent to the Summit County Commission. Mr. Grover added that the public needs to be aware of the cost of solid waste disposal which could appear on tax statements. The cost of not recycling is

becoming expensive on many levels. Mr. Grover felt that more nightly rentals should be participating and recycling services should be offered to all businesses.

Lola Beetlebrox, Outreach Director of Recycle Utah and EIC member, encouraged making it easier for people to do the right thing and formulating strategies so everyone recycles. She suggested that the City require developers to recycle as a part of project approvals and provide a number of drop off centers. She suggested pricing recycling services low and solid waste high. The community needs a permanent year-round hazardous material drop-off, a reuse shed, and a green waste drop-off site. She also discussed establishing other recycling centers.

IV WORK SESSION NOTES AND MINUTES OF MEETINGS OF DECEMBER 7, 14 AND 21, 2006

Hearing no corrections or omissions, the Mayor requested a motion to approve the minutes. Roger Harlan, "I so move". Candace Erickson seconded. Motion carried unanimously.

V CONSENT AGENDA PUBLIC HEARINGS

1. Ordinance approving the Red Stag Condominium plat located at 2550 Deer Valley Drive Ease **(motion to continue to January 25, 2007)** – The Mayor requested a motion to continue. Marianne Cone, "I so move". Roger Harlan seconded. Motion unanimously carried.

2. Ordinance approving the 239 Woodside Replat, an amendment to Lots 9, 10 and 100 of Block 31 of the Park City Survey, Park City, Utah – Planner Katie Cattan relayed that the applicant requested that this item be continued to the meeting of January 25, 2007. The Mayor requested a motion. Marianne Cone, "I so move". Roger Harlan seconded. Motion unanimously carried.

3. Ordinance approving the Mellow Mountain Estates Subdivision located at 940 Mellow Mountain Road, Park City, Utah – Ray Milliner explained that this application is for a four-unit subdivision located on vacant property. The application was reviewed by the Planning Commission for compliance with the subdivision ordinance as well as the sensitive lands overlay. The Commission recommends that 53,000 square feet of the property remain as open space and dedicated to the City; 10,360 square feet of each lot be allowed as disturbed area and the rest of the lot remain as open space. The maximum height, including pitched roofs, is 28 feet above existing grade and buildings are limited to 7,200 square feet. Additionally, the applicant will work with the City Engineer to rebuild a section of Mellow Mountain Road which will be dedicated to the City. In response to a question from Marianne Cone, Mr. Milliner stated that there is a

trail feature associated with the project which will be a sidewalk or a soft trail. Ms. Cone asked that the renegade signs in the neighborhood be removed so the location of the trail is clear to users. The Mayor opened the public hearing and with no comments, closed the hearing.

4. Ordinance approving a record of survey plat for the Second Amended the Cove at Eagle Mountain Phase II, located in the Wilburn West Annexation Parcel, Park City, Utah – Planner Ray Milliner explained that the property was annexed into the City in November and there has been no change to the configuration, number of units or density since the review of the annexation. Roger Harlan referred to instable soils in the project area and Mr. Milliner explained that the applicant and Chief Building Official extensively reviewed the location of the project. The Mayor opened the public hearing and with no input from the audience, closed the hearing.

5. Ordinance approving the subdivision plat for the Intermountain Healthcare Park City Medical Campus USSA Headquarters and training facility located at the northwest corner of US40/SR248 Interchange near Quinns Junction, Park City, Utah – Patrick Putt explained that Council is reviewing the preliminary final subdivision plat relating to the IHC/USSA's subdivision of approximately 157 acres. The proposal includes five lots; Lots 1 and 2 include the IHC's campus and associated open space on 132 acres; Lot 3 is five acres which will be conveyed to USSA for its headquarters and training facility; and Lots 4 and 5 will be conveyed to the City. Lot 4 is five acres and contemplated for the affordable housing site and Lot 5 is 15 acres anticipated for the future expansion of the recreation complex. In response to a concern raised from Mayor Williams, Mr. Putt explained that the open space is specifically sited as part of the annexation ordinance and all conditions and requirements are bound as part of this ordinance. This Ordinance creates the five lots of record so the associated sales and transfers of property can be accomplished. Mr. Putt continued to explain that the annexation was approved by the City Council on December 7, 2006 and there is a pending MPD application to be reviewed by the Planning Commission. It is contemplated that concurrent with or prior to the issuance of a building permit, the plat will be amended and all requirements of the CT zone will be again reviewed and confirmed on the plat. The Commission forwards a positive recommendation.

Candace Erickson stated that she is not supportive of the proposed affordable housing located on the entry corridor and asked if there will be an opportunity to adjust the site plan. Patrick Putt explained that there will be, the subdivision allows for the sale of property and the mitigation of visual impacts will be considered in a phased approach. Approval tonight creates the lots and an amended plat will reflect the configuration ultimately approved by the Planning Commission. Mark Harrington stated that this is not a preliminary plat and property will be conveyed to the City at this time. With regard to the affordable housing site, Tom Bakaly explained that the Development Agreement contemplates another location but in the meantime, the land is secured for housing. If the affordable housing obligation is not met within a year, the housing would be built on the identified site on the plat. The Mayor opened the public hearing.

Ed Brophy, resident, felt it important to provide public transportation to affordable housing projects. Mr. Bakaly stated that the current rider-ship does not support service to Quinns Junction, but at build-out, it is very likely. Jim Hier explained that it is contemplated that the housing will be primarily occupied by hospital employees.

VI CONSENT AGENDA

Jim Hier, "I move to approve Consent Agenda Items 2, 3, 4, 5, 7 and 8". Marianne Cone seconded. Motion unanimously carried. Marianne Cone, "I move to continue Item 1 to January 25 and Item 6 to a date uncertain on the Consent Agenda". Jim Hier seconded. Motion carried unanimously.

1. Ordinance approving the 239 Woodside Replat, an amendment to Lots 9, 10 and 100 of Block 31 of the Park City Survey, Park City, Utah – See staff report and public hearing. This item was continued to January 25, 2007.

2. Ordinance approving the Mellow Mountain Estates Subdivision located at 940 Mellow Mountain Road, Park City, Utah – See staff report and public hearing.

3. Ordinance approving a record of survey plat for the Second Amended the Cove at Eagle Mountain Phase II, located in the Wilburn West Annexation Parcel, Park City, Utah - See staff report and public hearing.

4. Ordinance approving the subdivision plat for the Intermountain Healthcare Park City Medical Campus USSA Headquarters and training facility located at the northwest corner of US40/SR248 Interchange near Quinns Junction, Park City, Utah - See staff report and public hearing.

5. Resolution establishing a regular meeting date, time, and location for meetings of the City Council of Park City, Utah for 2007 - See staff report and work session discussion.

6. Authorization to the Historical Society to proceed with applications for the museum expansion and remodel – This item was continued. See staff report and work session discussion.

7. Authorization to staff to execute an addendum to the service provider contract with FFKR Architects, in a form approved by the City Attorney, for the Shell Space Project adding $122,979 to the existing contract amount – See staff report.

8. Authorization to staff to execute a Fiscal Assistance Agreement, in a form approved by the City Attorney, with the Utah Division of Parks and Recreation, in order to receive a matching grant, obtain clearances, and construct the Quinn's Junction Multi-Use Loop Trails – See staff report.

VII RESIGNATIONS AND APPOINTMENTS

1. Appointment of Mayor Pro Tem and Alternate Mayor Pro Tem – The Mayor recommended the appointment of Marianne Cone as Mayor Pro Tem and Roger Harlan as Alternate. Jim Hier, "I so move". Joe Kernan seconded. Motion unanimously carried,

2. Appointments of two members and an alternate to the Employee Transfer and Discharge Appeals Board – The Mayor recommended the appointment of Jim Hier and Marianne Cone as members and Joe Kernan as an Alternate. Roger Harlan, "I so move". Candace Erickson seconded. Motion carried unanimously.

3. Appointments to the Citizen Open Space Advisory Committee III:

Board/Agency members	Citizens at large members
Jim Barth, Planning Commission	Jolie McTavish
Julia Petit Planning Commission Alternate	Tod Frohnen
Carol Potter, Recreation Advisory Board	John Huebner
Jen Franklin, Recreation Advisory Board Alternate	Suzanne Sheridan
Cheryl Fox, Summit Land Conservancy	Brooke Hontz
Tina Quayle, Summit Land Conservancy Alternate	John Ziegler
Jan Willking, BOSAC	Hans Fuegi
Shirin Spangenberg, Park City Chamber/Bureau	Brad Olch
Kari Del Hays, Park City Board of Realtors	Gabrielle Caruso
Greg Balch, Mountain Trails Foundation	Kyle Witt

Jim Hier, "I move appoint members to COSAC, as outlined in the staff report (and above)". Marianne Cone seconded. Motion carried unanimously.

VIII OLD BUSINESS

Ordinance approving the United Park City Mines/Park City Mountain Resort Annexation Agreement and amending the Official Zoning Map – Planner Brooks Robinson explained that on December 21, 2006, this item was continued by the City

Council because of unresolved issues. With regard to the conservation easement language, he referred to incorporating reserved uses which Summit Land Conservancy supports. There is pending resolution on an offer from Talisker to PCMR to cover increased costs caused by annexation. He indicated that the water agreement section was briefly discussed in work session and there are several alternatives outlined in the staff report. He acknowledged Mr. Hier's work session comment on road costs and referred to language on the park and ride. There is a requirement that the developer incur the costs to reconstruct the County road to acceptable standards and a latecomers' provision for other developments that may come on board to participate in expenses. The design of the park and ride lot is being reviewed by Summit County. Mr. Robinson explained that the extent of paving is about five to seven acres, including the landscaped islands. The balance of the 30 acres is proposed to the deeded to the City and would be used for recreation.

He suggested proposed language that within 24 months of the effective date of the Agreement, the petitioner or assignee thereof shall either begin construction of the additional 20 affordable housing units or post a financial guarantee in favor of the City to cover 10% of the estimated construction costs. This language is acceptable to Talisker. The conservation easement language appears to be acceptable to the Mayor and information supporting the square footage of Beano's Restaurant has been provided. Mr. Robinson stated that the modified transit plan has not been adopted by the Planning Commission but includes additional information from Fehr & Peers about The Montage Hotel and circulation through Empire Pass. Mr. Robinson emphasized that the task force, Planning Commission and a majority of Council members recommended the *no gondola option* under traffic mitigation. This triggered the developer's $1 million requirement toward the construction of an improvement like the park and ride. The developer also agrees to pay the City an additional $1 million toward a traffic mitigation program or project of its choice. There was a directive from Council in the past that the $1 million go toward bus fleet operations and/or purchases, not facilities like the park and ride. Talisker has agreed to spend $10,000 for a feasibility study to determine if a gondola to Empire Pass is feasible. The study would explore costs of construction, operations, usage, and alignment. He noted that the final item deals with a clarification of the CUP for the Empire Day Lodge to specify that the 75 parking spaces would be allowed for use by the lodge and its associated uses. Brooks Robinson stated that it is Council's prerogative to request additional information and possibly continue this item until there is final language based on comments tonight, including water and the gondola option. The Mayor opened the public hearing.

Jenny Smith, PCMC, stated that the resort and Talisker have struck a deal. The executed documents will be available in a couple of days and copies will be sent to the City. She thanked Talisker and acknowledged the City's support in working through this negotiation. She thought the gondola issue was settled, and expressed that as a transportation option, the gondola does not work for the resort. PCMR is open to skier amenities but not routing a gondola from the Town Lift up to the resort's mid-station and then over to Empire Pass. She felt that there are so many problems with the gondola concept that it seems unfair to place that responsibility with the developer. It may be more timely to consider a gondola after both resorts have expanded to the point that considering a ski interconnect is eminent.

Bob Wells, Deer Valley Resort, stated that he agrees with Jenny Smith's comments regarding the gondola. The original development agreement considered the gondola as alternative transportation to Empire Pass, which was determined to be ineffective from a traffic management standpoint. He encouraged a feasibility study to seriously address routes and Deer Valley Resort feels this is a business issue. Marianne Cone discussed a gondola concept conceived by prior PCMR manager, Vern Greco; she is still supportive of pursuing a gondola. Mr. Wells noted that it is Deer Valley Resort's view that a skier transportation element from Old Town to Deer Valley is very attractive, however, a gondola will not mitigating traffic to and from Empire Pass. Marianne Cone expressed that people need to change their practices. Jim Hier felt comments should be more pertinent to the Agreement.

Candace Erickson relayed that a lesson learned from the *Save Our Snow* discussion is the need to begin interjecting environmental measures in development agreements. She believed that if the gondola is used a traffic mitigation device it would need to be routed from Old Town to Empire Pass, not PCMR. She feels that the park and ride lot will move more traffic off the road, and the gondola could be a secondary option some time in the future. With no further comments from the audience, the Mayor closed the public hearing.

Mayor Williams asked Council members about the water element of the Agreement and Ms. Erickson expressed needing more information about the discharge permit. Roger Harlan agreed and felt it wise to gather more data. Tom Daley explained that the drafted amended water agreement incorporates four or five major material terms and agreement has been reached on all of them except the tunnel permit issue. Council could approve an amended Agreement silent on the Judge Tunnel permit issue and continue to resolve this issue. The other option is not incorporating the amended water agreement in its entirety and maintain a status quo of the agreements entered into in 1999 and 2000. Mr. Daley stated that in his opinion, the issue should be resolved concurrently with the annexation which is outlined in Options 1 or 2 in the staff report, placing the responsibility on the applicant or cost sharing in a solution, respectively. In response to a comment made by Jim Hier, Mr. Daley stated that he is convinced that the City has some responsibility. Mr. Hier felt that Option 1 assigns sole responsibility to Talisker which doesn't seem fair and Mr. Daley explained that the time line is not the

City's problem and if the permit issue continues to be researched, there will be a right answer.

David Smith, attorney for Talisker, stated that they are in support of Option 4 or 3A as defined by Tom Daley. He added that there has been a tremendous amount of progress made this past year and he and Tom Daley have accomplished a lot. He expressed their mutual commitment to continue to implement a physical solution to obviate the need for the permit. Mr. Smith suggested that the achievements made over the past year be assigned with a commitment to continue to work on the permit. Doug Clyde, agent for Talisker, stated that this is not project water and is completely separate.

Jim Hier asked about a time line when a share ratio can be determined for the discharge permit. Tom Daley pointed out that a review and/or approval from the EPA, JSSD, State Engineer's Office, etc. will all be required, which can not happen in 30 days. Mr. Hier suggested that language be incorporated indicating some level of commitment from both parties and Mr. Daley stated that these permit applications are perpetual and it is unknown if permits will increase in cost. Talisker is willing to pay a one-time contribution but not on-going financial support or becoming a joint permit holder on the discharge permit. Mayor Williams expressed the possibility that the City diverted water in the tunnel years ago for municipal culinary use. The level of responsibility to the City could be anywhere from zero to 100% and he cautioned stopping the process because of this issue. He personally supported Option 4 and urged a fair cost share determination. In response to a question from Marianne Cone, David Smith explained that the cooperation language has been significantly *beefed up* while striking language on assignment for responsibility for the permit. Tom Bakaly pointed out that if the percentage is unknown; the 50/50 option seems fair, which has been rejected by Talisker. Mr. Smith explained that Talisker turned down the proposal because the water is not project water and after conducting a statutory analysis, he strongly feels they have no responsibility. The Mayor again discussed the diversion of water into the Ontario and Tom Daley emphasized that the City is not using all of the water. Park City's ownership is limited to a paper water right and a non-exclusive easement in the tunnel. Through illustration of a map, Mr. Daley explained the small portion of the tunnel improved by the City in 1975.

Candace Erickson suggested beginning at 50/50 which can be adjusted as more information unfolds. Mark Harrington clarified that this is not project water and the issue relates to environmental concerns. Prior water agreements were developed with the understanding that the Judge Tunnel is operational and contributing to the system. The regulatory situation in the tunnel has changed and it seems ludicrous to him that a decision to move forward is made without clarity on the Judge Tunnel, the second major water source of the City. Mr. Harrington referred to Ms. Erickson's comments regarding fairly adjusting percentages as necessary. A strategy, with or without percentages, can be formulated in a defined time frame. Mr. Harrington strongly urged addressing the permit issue so the City's position is clear and emphasized that more progress has been made over the past three weeks on water than over three years.

Joe Kernan asked if the cost allocated will be aligned with the level of responsibility, i.e., loading minerals in the water. Mark Harrington stated that it is much more complicated because the area is undefined. Tom Daley interjected that there will be a permit requirement and a regulating agency; treatment of the tunnel water is estimated at $150,000 a year. In response to a comment from Mr. Kernan about Talisker's position, Mr. Smith indicated that they believe that under federal statutes, United Park has no permit responsibility. Jim Hier supported incorporating a responsibility and cost sharing element in the Agreement. There was discussion about obtaining the history of mineral loading records in the Judge Tunnel.

Mayor Williams referred to outstanding issues to confirm Council direction. He reiterated that the park and ride will be constructed using green building standards and the project is required to meet the night sky ordinance. There was discussion about the County processing the application but having these more restrictive requirements detailed in the Agreement. He clarified that the additional 20 affordable housing units will be built within 24 months from the signing of the Agreement. Mayor Williams noted that the Iron Canyon conservation easement is agreeable to all parties. Jim Hier pointed out the analysis conducted on the size of Beano's Restaurant and felt the square footage is acceptable. Ms. Erickson agreed. He confirmed that Council members are comfortable with the modified transit plan.

Joe Kernan asked for consensus from members that staff be directed to make the park and ride the non-gondola option and to retain the gondola option language to determine its long-term feasibility. Jim Hier explained that the original Flagstaff Agreement required the analysis and determination of a gondola as a traffic mitigation tool. It was ultimately determined to drop the gondola option. The annexation task force also arrived at the same conclusion and favored other alternatives, including the park and ride at Richardsons Flats. He emphasized the value of this amenity because of the expense involved if the City were to acquire property for a park and ride. Mr. Hier stated that he would reject a requirement for a gondola in the Agreement without defined criteria or a definition of what would make it feasible. It is unconscionable to reintroduce it if it is not for traffic management. Joe Kernan pointed out that the Development Agreement includes both the transit and gondola elements which has not changed. Mr. Hier interjected that the gondola option has been rejected twice and Marianne Cone asked what those decisions were based upon. Doug Clyde explained the feasibility study was conducted by a transit engineer and during the task force review, both Talisker's and the City's transit consultants reviewed the study and arrived at the same conclusion that the gondola option would not be effective. There was discussion about not knowing the real value of the property at Richardson's Flats. Council member Hier reiterated that the City selected the no gondola option and the developer has agreed to provide a park and ride to mitigate traffic and he does not support Mr. Kernan's recommendation. Roger Harlan expressed the same opinion as Council member Hier. Candace Erickson stated that a no gondola option has already been decided and by way of accepting the park and ride and $1 million to the City to mitigate the traffic, the developer is no longer obligated to construct the gondola. She described a scenario where interested parties may cooperatively explore a gondola sometime in the future. There was discussion about the value of the park and ride, but leaving the feasibility study language in the document.

With regard to the Empire Day Lodge parking, Council members expressed no objections. Discussion ensued regarding building the minimum amount of parking for projects. Mayor Williams stated that he is learning toward supporting the 50/50 approach and suggested that this element return to the City Council in a couple of weeks. David Smith stated that their conclusion was not arrived at inexpensively or lightly. From both a statutory and case law standpoint, he emphasized that it is abundantly clear that United Park does not have permit responsibility. With that being said, even if Talisker agrees to hold the permit which is not his advice, it would assume the responsibility for water treatment, delivery and operation of the City's culinary treatment plant. Mr. Hier suggested that this item be continued with direction to staff to formulate a cost sharing scenario acceptable to both parties. Mr. Smith clarified that Talisker holds a firm position on the discharge permit issue and given its other obligations and significant costs associated with water it is difficult to consider assuming additional cost burdens.

Joe Kernan, "<u>I move to continue the Ordinance approving the United Park City Mines Company and Park City Mountain Resort Annexation until February 1</u>". Candace Erickson seconded. <u>Motion carried unanimously</u>.

IX ADDITIONAL DISCUSSION – AGENDA ITEMS

None.

X ADJOURNMENT

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

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 3:30 p.m. Members in attendance were Mayor Dana Williams, Marianne Cone, Candace Erickson, Roger Harlan, Jim Hier, and Joe Kernan. Staff present was Tom Bakaly, City Manager; Tom Daley, Deputy City Attorney; and Mark Harrington, City Attorney. Candace Erickson "I move to close the meeting to discuss property". Joe Kernan seconded. Motion carried unanimously. The meeting opened at approximately 4 p.m. Marianne Cone, "I move to open the meeting". Roger Harlan seconded. Motion unanimously carried.

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

Prepared by Janet M. Scott, City Recorder