PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
DECEMBER 9, 2004

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building City Council Chambers, 445 Marsac Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, December 9, 2004.

Closed Session – Executive Conference Room
3:30 p.m. Property and litigation

Work Session – City Council Chambers
4:30 p.m. Council questions/comments
4:40 p.m. Summit County refuse programs
5:00 p.m. Review of regular meeting
Salvage policy
Audit report
Insurance renewal
Traffic light warrant
Other questions/comments
5:50 p.m. Break

Regular Meeting – City Council Chambers
6:00 p.m.

I ROLL CALL

II COMMUNICATIONS FROM COUNCIL AND STAFF

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

IV CONSENT AGENDA

1. Authorize the City Manager to execute the professional services agreement with Project Engineering Consultants in an amount not to exceed $12,000 for services related to a traffic signal warrant study at the intersection of Meadows Drive and SR224

2. Resolution accepting designations of specified areas within the municipality to be Utah Recycling Market Development Zones

3. Acceptance of audit report for Fiscal Year ending June 30, 2004

4. Authorize the following insurance premium payments for workers compensation, property, public entity broad form liability, and crime insurance covering a one-year period from January 1, 2005 through January 1, 2006:

- $115,660 to States Self-Insurers Risk Retention Group, Inc. for public entity broad form liability insurance;
- $114,255.78 to Utah Local Governments Trust (“ULGT”) for workers compensation insurance;
- $ 44,721 to Lloyds of London for property insurance;
- $ 3,589 to Travelers for Public Officials Employee Dishonesty (Crime);
- Self insure physical damage coverage for City buses; and
- Decline optional Terrorism Risk Insurance.

5. Approval of an amendment to the FY 2005-2006 budget policies to include a modification to the City’s salvage policy to allow disposal by internet auction

V NEW BUSINESS

1. Authorize the City Manager to execute a purchase agreement, in a form approved by the City Attorney, for the Hope Mining Claims (approximately 112 acres) for $1.1 million, using proceeds from the 2002 open space bond

2. Request for reconsideration of the November 11, 2004 plat amendment approval for the Chateaux at Silverlake Building C

VI ADJOURNMENT

A majority of City Council members may meet socially after the meeting. If so the location will be announced by the Mayor. City business will not be conducted.

Posted: 12/06/04
See: parkcity.org

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

December 2004

16 Cultural tourism advisory committee update – manager's report
Closed - property
Olympic Welcome Plaza – work
Loan request from Mountainlands Community Housing Trust - Phyllis
International Pedigree Stage Stop Sled Dog Race MFL – February 5, 2004
LMC Amendments- Olympic Legacy signs and projects
Call-up of Union Square MPD
17 Management retreat
23 **No meeting**
30 **No meeting**

January 2005

6-7 Council Visioning
13 Housing update – Phyllis
Amendment to soils ordinance - Jeff
20 **No meeting**
27

February 2005

3
10
17
24

March 2005

3
10
17
24
31

Pending Items:

Bus service to SLC - work
Water Service District – Grant of easement from Iron Mountain Associates
Transit Center Land Match Resolution – Gary
Sign Code amendments – Ray
CDBG preliminary hearing - July

DATE: December 9, 2004
DEPARTMENT: Public Works
AUTHOR: Jerry W Gibbs
TITLE: Summit County Solid Waste Issues
TYPE OF ITEM: Informational

Summary Recommendations: Provide Staff with direction about the position regarding
Topic: Summit County Waste Advisory Committee

Background:

PURPOSE

The Board of County Commissioners appointed a committee to discuss and make recommendations on funding and the future of solid waste programs for collection and disposal of the County's Solid Waste Program. The committee includes six elected officials and six citizens at large. The elected officials are Joe Kernan (Park City), Rodney Smith (Kamas), Jim Rees (Henefer), Mark Peck (Francis), Pat Occhino (Oakley), and Howard Madsen (Coalville). The at-large members are Merlin Johnson, Paul Marsh, Carl Mangus, Randy Ovard, Insa Reipen, and Bill Stoddard.

The committee's assignment was to discuss expansion of the Three Mile Landfill, program funding, and program expansion. The committee has been meeting since April 2004. Councilman Joe Kernan was elected chair and Paul Marsh of Park City the vice-chair.

Analysis

Three Mile Landfill Expansion

The existing cell at the landfill is expected to have about 7-10 more years of life. The approval process, design and construction are anticipated to take up to five years at an estimated cost of $4,500,000 and $1,000,000 to cover the existing cell. The committee explored taking Summit County waste to other agency's landfill, improving compaction efficiency at the current landfill or expanding the current landfill. The committee determined it would be more prudent to obtain the necessary approvals for an expanded cell since other agencies could discontinue providing landfill space.

Funding

The General Fund pays for the landfill operations, single-family residential pick-ups and limited residential recycling at a cost of approximately $1.8 million. Tipping fees for construction trash is about $8.00 per ton. This generates approximately $250,000 annually. Other areas have tipping fees in the $16 to

$20 per ton range. The committee is considering an increase in the $8 to $20 range per ton. Revenues would increase proportionately $250,000 to $630,000 respectively.

The committee would like to expand recycling opportunities paid by the county to other single family areas and include multi-family residential. Multi-family residential currently pays for waste services and recycling. The estimated cost of the program is $350,000 annually. The committee also recommended funding $10,350 for expanded drop off center in Coalville and a new center in Henefer.

BFI has an exclusive contract for residential and commercial waste that will expire in 12-06. The County could extend their contract for an additional two years. County staff has suggested the County consider providing residential waste pick-up services as a way to control cost in lieu of contracting with a private hauler. Commercial establishments would be able to choose a commercial hauler and negotiate a price.

BFI provides an automated recycling program. Recycle material is taken to their plant in Salt Lake City. The manual recycling program takes their material to Recycle Utah. The volume has increased substantially. Recycle Utah receives about $12,000 from the County for the added volume from the manual recycling program.

Recycle Utah would like to house a permanent HazMat trailer onsite to take household hazardous materials to minimize the same materials going to the Three Mile Landfill. The annual cost would be approximately $18,000 -$20,000. The committee did not support for this effort. The committee did support providing $2,000 a year for an electronic waste storage space for Recycle Utah and $6,000 per year for two household hazardous waste events.

A questionnaire has been delivered to each community requesting input on recycling drop off centers in rural areas, sustainable benefits of recycling, curbside recycling expansion, recycling competition (automated vs manual recycling), tourism recycling (2nd homes), multi-family vs single family equity, county provided trash services vs private contractors, competitive commercial waste hauling, and funding.

Program Expansion

The committee is prepared to make the following general recommendations:

1. Begin the planning for the expanding a cell at the Three Mile Landfill
2. maintain at least the current level of funding from the General Fund
3. Expand the number of landfill employees to assure a safe operations
4. Increase funding to Recycle Utah for hazardous household waste collection

5. Increase tipping fees to reflect market pricing at the Hennifer Landfill to pay for new or expanding solid waste programs
6. Recycling efforts should be expanded to the eastside of Summit County

While this level of detail needs to be sorted out by the committee; the broader, philosophical issue is “Should the County’s General Fund continue to support the “Solid Waste Program” and at what levels?”

City Council
Staff Report

Author:	**Eric DeHaan, P.E.**
Subject:	**SIGNAL WARRANT STUDY**
Date:	**December 09, 2004**
Type of Item:	**Administrative –** ***Professional Services Agreement***

CITY ENGINEER

Summary Recommendations:
Authorize the City Manager to execute the Professional Services Agreement with Project Engineering Consultants (PEC) in an amount not to exceed $12,000 for services related to a Traffic Signal Warrant Study at the intersection of Meadows Drive and S.R. 224.

Topic:
This contract will result in a Traffic Signal Warrant Study to UDOT standards allowing UDOT and Park City to understand whether a traffic signal is warranted at the intersection of Meadows Drive and S.R. 224.

Background:
At the City Council meeting on October 14, 2004, the Council heard public input from Lee Gerstein requesting a traffic signal at the intersection of Meadows Drive and S.R. 224. The Council discussed the request and directed the staff to initiate the signal warrant study process to determine whether a signal is technically warranted. The intersection sees a moderate amount of pedestrian traffic and serves as a primary entry to Park Meadows and to Aspen Springs Ranch. Since the signal warrant study is not budgeted and is greater than $10,000.00, Council approval is required.

Analysis:
Much of the data collection and warrant analysis is beyond the ability of the staff to perform in a timely manner. The staff has worked with Project Engineering Consultants on other transportation studies and projects within Park City. PEC is familiar with Park City's seasonal traffic patterns and our primary residential traffic attributes. PEC is a professional engineering firm familiar with UDOT warrant studies and is uniquely qualified to perform this signal warrant study for this important intersection located in Park City's entry corridor.

Alternatives:

1. Approve the Request:

Approve the professional services contract with PEC for the traffic signal warrant study.

2. Deny the Request:

Do not approve the contract. This will leave the Meadows Drive intersection in its current condition until such time as either Summit County or UDOT chooses to perform a signal warrant study.

3. Continue the Item:

Continue the contract with direction. If the Council desires more information regarding the intersection, the traffic signal, or any other aspect of the issue, the item can be continued with direction to staff to return with an amended staff report.

Significant Impacts:

Park City's engineering operating budget contains two line items for professional services. It is anticipated that this agreement with PEC can be fully paid out of these existing appropriated operating funds. Please note that in the event a traffic signal is warranted the Council will need to decide whether to proceed with capital budgeting for the anticipated $300,000 construction cost and what priority that project would be assigned. Although UDOT typically contributes some "in-kind" materials, unless UDOT initiates the project, the funding burden of a signal rests with the local jurisdiction.

Recommendation:

Direct staff to approve the Professional Services Agreement with Project Engineering Consultants in a form substantially the same as the attached agreement with the final form to be approved by the City Attorney.

PARK CITY MUNICIPAL CORPORATION SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into in duplicate this ____ day of _____________, 2004, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation, (ACity@), and Project Engineering Consultants, Ltd., a Utah corporation (AService Provider@).

WITNESSETH:

WHEREAS, the City desires to have certain services and tasks performed as set forth below requiring specialized skills and other supportive capabilities; and

WHEREAS, sufficient City resources are not available to provide such services; and

WHEREAS, the Service Provider represents that the Service Provider is qualified and possesses sufficient skills and the necessary capabilities, including technical and professional expertise, where required, to perform the services and/or tasks set forth in this Agreement.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, the parties hereto agree as follows:

1. SCOPE OF SERVICES.

The Service Provider shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof, as are identified and designated as Service Provider responsibilities throughout this Agreement and as set forth in the AScope of Services@ attached hereto as AExhibit A@ and incorporated herein (the AProject@). The total fee for the Project shall not exceed $12,000.00 Dollars.

2. TERM.

The term of this Agreement shall commence on the date of execution on this Agreement and shall terminate on July 15, 2005 or earlier, unless extended by mutual written agreement of the Parties.

3. COMPENSATION AND METHOD OF PAYMENT.

A. Payments for services provided hereunder shall be made monthly following the performance of such services.

B. No payment shall be made for any service rendered by the Service Provider except for services identified and set forth in this Agreement.

C. For all Aextra@ work the City requires, the City shall pay the Service Provider for work performed under this Agreement according to the schedule attached hereto as
AExhibit B,@ or if none is attached, as subsequently agreed to by both parties in writing.

D. The Service Provider shall submit to the City Manager or his designee on forms approved by the City Manager, an invoice for services rendered during the pay period. The City shall make payment to the Service Provider within thirty (30) days thereafter. Requests for more rapid payment will be considered if a discount is offered for early payment. Interest shall accrue at a rate of six percent (6%) per annum for services remaining unpaid for sixty (60) days or more.

E. The Service Provider reserves the right to suspend or terminate work and this Agreement if any unpaid account exceeds sixty (60) days.

4. REPORTS AND INSPECTIONS.

A. The Service Provider, at such times and in such forms as the City may require, shall furnish the City such statements, records, reports, data, and information as the City may request pertaining to matters covered by this Agreement.

B. The Service Provider shall at any time during normal business hours and as often as the City may deem necessary, make available for examination of all its records and data with respect to all matters covered, directly or indirectly, by this Agreement and shall permit the City or its designated authorized representative to audit and inspect other data relating to all matters covered by this Agreement. The City may, at its discretion, conduct an audit at its expense, using its own or outside auditors, of the Service Provider=s activities, which relate directly or indirectly, to this Agreement.

5. INDEPENDENT CONTRACTOR RELATIONSHIP.

A. The parties intend that an independent Service Provider/City relationship will be created by this Agreement. No agent, employee, or representative of the Service Provider shall be deemed to be an employee, agent, or representative of the City for any purpose, and the employees of the Service Provider are not entitled to any of the benefits the City provides for its employees. The Service Provider will be solely and entirely responsible for its acts and for the acts of its agents, employees, subcontractors or representatives during the performance of this Agreement.

B. In the performance of the services herein contemplated the Service Provider is an independent contractor with the authority to control and direct the performance of the details of the work, however, the results of the work contemplated herein must meet the approval of the City and shall be subject to the City=s general rights of inspection and review to secure the satisfactory completion thereof.

6. SERVICE PROVIDER EMPLOYEE/AGENTS.

The City may at its sole discretion require the Service Provider to remove an employee(s), agent(s), or representative(s) from employment on this Project. The Service Provider may, however, employ that (those) individuals(s) on other non-City related projects.

7. HOLD HARMLESS INDEMNIFICATION.

A. The Service Provider shall indemnify and hold the City and its agents, employees, and officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City arising out of, in connection with, or incident to the execution of this Agreement and/or the Service Provider=s defective performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the City, its agents, employees, and officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Service Provider; and provided further, that nothing herein shall require the Service Provider to hold harmless or defend the City, its agents, employees and/or officers from any claims arising from the sole negligence of the City, its agents, employees, and/or officers. The Service Provider expressly agrees that the indemnification provided herein constitutes the Service Provider=s limited waiver of immunity as an employer under Utah Code Section 34A-2-105; provided, however, this waiver shall apply only to the extent an employee of Service Provider claims or recovers compensation from the City for a loss or injury that Service Provider would be obligated to indemnify the City for under this Agreement. This limited waiver has been mutually negotiated by the parties, and is expressly made effective only for the purposes of this Agreement. The provisions of this section shall survive the expiration or termination of this Agreement.

B. No liability shall attach to the City by reason of entering into this Agreement except as expressly provided herein.

8. <u>INSURANCE</u>.

The Service Provider shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Service Provider, their agents, representatives, employees, or subcontractors. The Service Provider shall provide a Certificate of Insurance evidencing:

A. General Liability insurance written on an occurrence basis with limits no less than one million dollars ($1,000,000) combined single limit per occurrence and two million dollars ($2,000,000) aggregate for personal injury, bodily injury and property damage.

B. Automobile Liability insurance with limits no less than five hundred thousand dollars ($500,000) combined single limit per accident for bodily injury and property damage.

C. Professional Liability (Errors and Omissions) insurance written on an occurrence basis with limits no less than one half million dollars ($500,000) combined single limit per occurrence.

D. Workers Compensation insurance written on an occurrence basis with limits no less than one half million dollars ($500,000) combined single limit per occurrence.

E. The City shall be named as an additional insured on the insurance policies, as respect to work performed by or on behalf of the Service Provider and a copy of the endorsement naming the City as an additional insured shall be attached to the Certificate of Insurance. The Certificate of insurance shall warrant that the City shall receive thirty (30) days advance notice of cancellation. The City reserves the right to request certified copies of any required policies.

F. The Service Provider's insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

9. <u>TREATMENT OF ASSETS</u>.

Title to all property furnished by the City shall remain in the name of the City and the City shall become the owner of the work product and other documents, if any, prepared by the Service Provider pursuant to this Agreement (contingent on City's performance hereunder).

10. COMPLIANCE WITH LAWS.

A. The Service Provider, in the performance of this Agreement, shall comply with all applicable federal, state, and local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services.

B. The Service Provider specifically agrees to pay any applicable fees or charges which may be due on account of this Agreement.

11. NONDISCRIMINATION.

A. The City is an equal opportunity employer.

B. In the performance of this Agreement, the Service Provider will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap; provided that the prohibition against discrimination in employment because of handicap shall not apply if the particular disability prevents the proper performance of the particular worker involved. The Service Provider shall ensure that applicants are employed, and that employees are treated during employment without discrimination because of their race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships. The Service Provider shall take such action with respect to this Agreement as may be required to ensure full compliance with local, state and federal laws prohibiting discrimination in employment.

C. The Service Provider will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap.

D. If any assignment or subcontracting has been authorized by the City, said assignment or subcontract shall include appropriate safeguards against discrimination. The Service Provider shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

12. ASSIGNMENTS/SUBCONTRACTING.

A. The Service Provider shall not assign its performance under this Agreement or any portion of this Agreement without the written consent of the City, and it is further agreed that said consent must be sought in writing by the Service Provider not less than thirty (30) days prior to the date of any proposed assignment. The City reserves the right to reject without cause any such assignment.

B. Any work or services assigned hereunder shall be subject to each provision of this Agreement and property bidding procedures where applicable as set forth in local, state or federal statutes, ordinance and guidelines.

C. Any technical/professional service subcontract not listed in this Agreement, must have express advance approval by the City.

13. CHANGES.

Either party may request changes to the scope of services and performance to be provided hereunder, however, no change or addition to this Agreement shall be valid or binding upon either party unless such change or addition be in writing and signed by both parties. Such amendments shall be attached to and made part of this Agreement.

14. MAINTENANCE AND INSPECTION OF RECORDS.

A. The Service Provider shall maintain books, records and documents, which sufficiently and properly reflect all direct and indirect costs related to the performance of this Agreement and shall maintain such accounting procedures and practices as may be necessary to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit by the City, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.

B. The Service Provider shall retain all books, records, documents and other material relevant to this Agreement for six (6) years after its expiration. The Service Provider agrees that the City or its designee shall have full access and right to examine any of said materials at all reasonable times during said period.

15. POLITICAL ACTIVITY PROHIBITED.

None of the funds, materials, property or services provided directly or indirectly under the Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

16. **PROHIBITED INTEREST**.

No member, officer, or employee of the City shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

17. **MODIFICATIONS TO TASKS AND MISCELLANEOUS PROVISIONS**.

A. All work proposed by the Service Provider is based on current government ordinances and fees in effect as of the date of this Agreement.

B. Any changes to current government ordinances and fees which affect the scope or cost of the services proposed may be billed as an “extra” pursuant to Paragraph 3(C), or deleted from the scope, at the option of the City.

C. The City shall make provision for access to the property and/or project and adjacent properties, if necessary for performing the services herein.

18. **TERMINATION**.

A. Either party may terminate this Agreement, in whole or in part, at any time, by at least thirty (30) days written notice to the other party. The Service Provider shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Service Provider shall promptly submit a termination claim to the City. If the Service Provider has any property in its possession belonging to the City, the Service Provider will account for the same, and dispose of it in a manner directed by the City.

B. If the Service Provider fails to perform in the manner called for in this Agreement, or if the Service Provider fails to comply with any other provisions of the Agreement and fails to correct such noncompliance within three (3) days written notice thereof, the City may immediately terminate this Agreement for cause. Termination shall be effected by serving a notice of termination on the Service Provider setting forth the manner in which the Service Provider is in default. The Service Provider will only be paid for services performed in accordance with the manner of performance set forth in this Agreement.

19. **NOTICE**.

Notice provided for in this Agreement shall be sent by certified mail to the addresses designated for the parties on the last page of this Agreement.

20. ATTORNEYS FEES AND COSTS.

If any legal proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and other costs incurred in that action or proceeding.

21. JURISDICTION AND VENUE.

A. This Agreement has been and shall be construed as having been made and delivered with the state of Utah, and it is agreed by each party hereto that this Agreement shall be governed by laws of the state of Utah, both as to interpretation and performance.

B. Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement, or any provisions thereof, shall be instituted and maintained only in any of the courts of competent jurisdiction in Summit County, Utah.

22. SEVERABILITY.

A. If, for any reason, any part, term, or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

B. If it should appear that any provision hereof is in conflict with any statutory provision of the state of Utah, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform in such statutory provisions.

23. ENTIRE AGREEMENT.

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute material breach of contract and cause for termination. Both parties recognize time is of the essence in the performance of the provisions of this Agreement. It is also agreed by the parties that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed the day and year first hereinabove written.

November 13, 2004

Eric DeHaan, PE
Park City Engineer
P.O. Box 1480
445 Marsac Avenue
Park City, UT 84060
DEHAAN@parkcity.org

RE: SR-224 and Meadow View Drive, Traffic Signal Warrant Analysis

Dear Eric:

Thank you for contacting of our firm regarding the SR-224 and Meadow View Drive Traffic Signal Warrant Analysis. Based on our understanding of the project and previous conversations with you, we have compiled a scope of work to complete this traffic signal warrant analysis. We will compile an associated fee when we have agreed on the scope of work.

Scope of Work

According to the Manual on Uniform Traffic Control Devices (MUTCD) requirements, there are eight different warrant categories.

- Warrant 1 – Eight Hour Vehicular Volume
- Warrant 2 – Four Hour Vehicular Volume
- Warrant 3 – Peak Hour
- Warrant 4 – Pedestrian Volume
- Warrant 5 – School Crossing
- Warrant 6 – Coordinated Signal System
- Warrant 7 – Crash Experience
- Warrant 8 – Roadway Network

These eight warrants at the SR-224 and Meadow View Drive intersection will define the scope of the study. The scope of this study will specifically include the following tasks:

Data Collection

- PEC will gather information on historic daily traffic volumes on those roads where the information is available. We have spoken with UDOT and the closest permanent traffic count station is located south of the Canyons main entrance on SR-224. This information will be used to verify peak hours and days for the area.
- PEC will perform pedestrian and vehicular movement counts along SR-224 and Meadow View Drive for the Eight, Four and Peak Hour Warrants on Thursday, January 13th and Saturday, 15th 2005. To gather the information necessary it will require two individuals to count from 7:00 AM to 6:00 PM on both days. By counting both days and incorporating the

- morning and afternoon peak hours it will provide us with the data necessary to complete an accurate analysis.
- PEC will contact UDOT and Park City to gather any crash data available.
- PEC will also gather information on existing roadway geometries, lane configurations, and traffic control devices.
- Any additional proposed development projects that may impact the traffic volumes at the intersection will be provided by Park City and this will be used to develop additional vehicular trips.

Warrant Analysis

With the information gathered an analysis will be performed for each of the different warrant categories, incorporating the steps discussed below:

- Projected traffic volumes will be calculated from trip generation rates using the land use information if there is additional development anticipated that will impact the intersection.
- The existing level of service at the intersection will then be evaluated using the Highway Capacity Manual (HCM).
- Each warrant category will be analyzed using the criteria specified in the MUTCD.
- Potential geometric improvements for improved efficiency and safety will be evaluated.

Recommendations and Documentation

The analysis, corresponding figures and recommendations will be documented in a technical report and presented to Park City for their review. After one review of the draft, any modifications necessary will be corrected and a final report, hard copy and electronic, will be submitted to Park City.

The project budget for the scope as outlined above is estimated at a lump sum of **$???? (to be determined at a later date)**. As part of the original scope, we will attend one public meeting to present our findings to the City. If additional meetings or work that is outside the scope becomes necessary, and at the client's written direction, the work will be performed on a time and expenses basis based on our current fee schedule.

PEC looks forward to participating in this Traffic Signal Warrant Analysis. We anticipate our estimated completion date is roughly three weeks after the intersection counts are performed (first part of February). We will need a written notice to proceed no later than January 3rd. Please call if you have any questions or comments about the proposed scope of work.

Sincerely,
Project Engineering Consultants

Carrie O. O'Neill

Carrie O'Neill, PE
Senior Transportation Manager

City Council
Staff Report

EXECUTIVE OFFICE

Author: Sharon Bauman
Subject: Recycling Market Development Zone
Date: December 9, 2004
Type of Item: Legislative

Summary Recommendation:
Approve a resolution that authorizes the staff to complete and file an application for renewal of the Recycling Market Development Zone within Park City.

Topic:
Recycling Market Development Zone

Background:
In 1996, the Utah Legislature created the Utah Recycling Market Development Zone Program, which focuses on recycling as an economic development tool. Eligible recycling businesses that are located in designated Recycling Market Development Zones qualify for:

- 5% state tax credit on machinery and equipment
- 20% state tax credit on machinery and equipment
- Technical assistance from state recycling economic development professionals

In 1999, Park City Municipal Corporation Staff and Council applied for, and received designation as, a Recycling Market Development Zone. The designation is valid for five years and a renewal application is necessary to continue the designation.

Analysis:

The State of Utah does not allow an entire city to become a Recycling Market Development Zone, therefore, the Deer Valley MPD, Flagstaff and Deer Crest Annexation Areas, Thaynes Canyon, Iron Canyon, and Aspen Subdivision were excluded. The likelihood that recycling businesses would locate their headquarters in those areas was deemed to be slimmer than other areas of the City. The remainder of the City was designated as a Recycling Market Development Zone.

Park City would benefit from designating areas of the City as Recycling Market Development Zones, in order to attract and assist businesses that collect, process, distribute or use recycled materials in their manufacturing operations, or compost.

Existing business such as Recycle Utah, Good Earth Recycling, and Curb It have reported benefiting from the incentives offered by the State of Utah.

Park City Municipal Corporation already has its primary incentive in place, and therefore would not have to offer any further incentives to existing or future local businesses. The current primary incentive includes the free use of the recycling drop-off at the City-owned Recycling Center at 1951 Woodbine Way. There is no additional cost to the City if the Recycling Market Development Zone is continued.

Department Review:
City Manager, Legal Department and Planning Department.

Alternatives:

Approve the Request:
Authorize the continued designation of Park City as a Recycling Market Development Zone and direct staff to submit a renewal application.

Deny the Request:
Council can direct staff not to pursue the continued designation of Park City as a Recycling Market Development Zone.

Continue the Item:
Continuing the item will delay the application process and the State would not be able to designate the City prior to year-end, which would result in local businesses not being able to get the state incentives for calendar year 2004.

Significant Impacts:
Authorizing the designation of Park City as a Recycling Market Development Zone will be a benefit to the Park City community because it will become increasingly economically feasible for local businesses to recycle, which in turn will prolong the life of the current land fill. The city would gain a valuable tool for economic development by offering future businesses the opportunity to receive the above mentioned incentives from the State.

Consequences of not taking the recommended action:
Denying or Continuing the request will have similar effects, which will be a delay of the application process and the State would not be able to designate the City prior to year-end, which would result in the local businesses no being able to get the state incentives for calendar year 2004.

Recommendation:
Approve a resolution that authorizes the Staff to apply for continued designation of Park City as a Recycling Market Development Zone.

Resolution No. __-04

RESOLUTION ACCEPTING DESIGNATION OF SPECIFIED AREAS WITHIN THE MUNICIPALITY TO BE UTAH RECYCLING MARKET DEVELOPMENT ZONES

WHEREAS, the Utah Code §9-2-1601, known as the "Recycling Market Development Zone Act" provides for state and local incentives to be extended to businesses which collect, process, distribute or use recycled materials in their manufacturing operations, or compost; and

WHEREAS, recycling businesses located in designated Recycling Market Development Zones are eligible for a variety of incentives; and quality for the Municipality shall designate; and

WHEREAS, the City currently provides a primary incentive for recycling in the form of the City-owned Recycling Center at 1951 Woodbine Way.

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

SECTION 1. PARK CITY RECYCLING MARKET DEVELOPMENT ZONE. The entire City, with exception of the areas known as Deer Valley MPD, Deer Crest and Flagstaff Annexation Areas, and Thaynes Canyon, Iron Canyon and Aspen Springs Ranch Subdivisions, is hereby designed as a Recycling Market Development Zone.

SECTION 2. APPLICATION. Staff is hereby authorized to file the necessary application with the State.

SECTION 3. EFFECTIVE DATE. This Resolution shall take effect upon adoption by the City Council.

PASSED AND ADOPTED this 9th day of December, 2004.

PARK CITY MUNICIPAL CORPORATION
RECYCLING MARKET DEVELOPMENT ZONE APPLICATION
RENEWAL

Applicant:	Park City Municipal Corporation
Address:	445 Marsac Avenue, P. O. Box 1480, Park City, Utah 84060
Contact:	Sharon Bauman
Phone:	435-615-5184
Fax:	435-615-5901

DESCRIPTION OF AREA TO BE DESIGNATED AS RECYCLING MARKET DEVELOPMENT ZONE:

In 1999, Park City Municipal Corporation requested that all areas of the City with the exception of Deer Valley MPD, Flagstaff and Deer Crest Annexation Areas, Thaynes Canyon, Iron Canyon and Aspen Springs Ranch Subdivisions, be designated as a Recycling Market Development Zone. The proposed zone represents approximately 40% of the geographical area of Park City, and consists of approximately 4 square miles. On December 28, 1999 this designation was approved by the State of Utah, Department of Community and Economic Development.

DESCRIBE THE CURRENT POST CONSUMER WASTE COLLECTION FOR RECYCLING:

Recycle Utah (RU), a 501 (c)(3) non-profit organization, located in Park City since 1989, (1951 Woodbine Way, Park City UT 84060) is dedicated to preserving the environment through the reuse and recycling of resources, as well as promoting waste reduction. The organization provides facilities and public education while creating an effective waste stream management model.

RU manages one drop-off center in Park City and four other centers in Summit and Wasatch Counties. The Park City drop-off center collects: aluminum cans; any type of metal; any color of glass; any type of paper including phone books, grocery bags, magazines, catalogues and junk mail; white and pastel-colored office paper; corrugated cartons and paperboard, as well as any type of plastic. They also collect any type of plastic bags, batteries, cell phones, toner and ink cartridges and CDs.

In 2003, RU diverted approximately 2,400 tons of recyclable material from the Three Mile Canyon Municipal Landfill. On average since 1991, diversion has increased 19% per year.

RU has a reuse program which collects moving cartons, bubble wrap and Styrofoam peanuts. They also sponsor the “Good Wood Project” which takes in reusable building materials. This project collects approximately 25 pick-up truck loads each month. They also sponsor educational programs through the local schools and in cooperation with the Park City Board of Realtors

Good Earth Recycling (1970 Stryker Avenue, Park City UT 84060) is a private, curbside subscription service available to Park City residents and businesses for a monthly fee. In addition to plastics and magazines, Good Earth Recycling collects the same materials as Recycle Utah. Good Earth Recycling has approximately 300 customers in Park City, and effectively diverts recyclable material from the Three Mile Canyon Municipal Landfill.

Curb It Recycling (PO Box 681397, Park City UT 84068) is a private, curbside subscription service available to Park City businesses for a monthly fee.

County Curbside (Park City UT) is a private curbside subscription service available to Old Town and Prospector area residents. They provide service to 865 residential customers, and effectively divert recyclable materials from the Three Mile Canyon Municipal Landfill.

THE EXPECTED INVESTMENT THAT WOULD OCCUR WHEN THE DESIGNATION IS IN PLACE:

Park City Municipal Corporation has a comprehensive grant program oriented at community programs in place. Historically, Park City Municipal Corporation has assisted recycling efforts in the city through grants. Park City Municipal Corporation contributes approximately $20,000 annually to the Recycling Center on Woodbine Way.

Park City Municipal Corporation projects that a continuation of the Recycling Market Development Zone designation will allow continued investments in recycling to occur. Depending on the amount of businesses participating we estimate that the investment in equipment will exceed $10,000.

ANY COMMITMENT FROM BUSINESSES THAT ARE WILLING TO PARTICIPATE, AND IN WHAT CAPACITY REGARDING RECYCLING MARKETS:

Recycle Utah will remain the operator of the Woodbine Way Recycling Center, and Good Earth Recycling, Curb It, and County Curbside will continue to offer their services to businesses and private individuals.

DEMONSTRATE A COORDINATION BETWEEN THE JURISDICTION'S ECONOMIC DEVELOPMENT PLAN AND THE RECYCLING ZONE'S OVERALL DEVELOPMENT GOALS:

Park City has been experienced explosive growth since the 1990's. Due to the current high development rates, Park City Municipal Corporation does not have a written economic development plan. Instead, if an industry desires to locate within Park City, it is evaluated on a case by case basis. The City supports economic development, but chooses not to expend funds to recruit businesses to the city.

The Park City Land Management Code, Master Planned Development regulations, emphasizes the importance of planning for refuse storage and collection and recycling facilities. It also requires that pedestrian access to the facilities be provided within the MPD for the convenience of residents and guests.

A Recycling Zone provides incentives for businesses to create or enhance recycling services that will reduce the need for landfill expansion, a cost of growth.

HOW THE LAND USE ZONING IN THE NEW RECYCLING ZONE ARE APPROPRIATE FOR RECYCLING TYPE BUSINESSES AND INDUSTRIES (INCLUDE A ZONING MAP OF DESIGNATED AREA):

The area selected to be a Recycling Market Development Zone was carefully selected to provide an opportunity for the majority of local businesses to participate in recycling. The RMDA corresponds with the location of present and future businesses in the city. The rationale was to create a comprehensive geographical area to facilitate recycling among most businesses in Park City.

THE CURRENT LONG TERM WASTE MANAGEMENT PLAN AND EVIDENCE THAT THE ZONE WILL BE ADEQUATELY SERVED BY THE PLAN:

Park City Municipal Corporation is very interested in setting up recycling programs throughout the city. Currently the City is pleased to be served by Good Earth Recycling, Curb It, and County Curbside and feels that their services are consistent with the City's desire to promote recycling and consistent with the Summit County Waste Management Plan.

THE CURRENT POST CONSUMER WASTE COLLECTION INFRASTRUCTURE, AND CURRENT STATUS OF THE LANDFILL AND ITS CAPACITY:

BFI currently holds a contract with Summit County and Park City for business and residential waste collection. The contract which was initiated in January 2000 will expire in December 2006. Under the contract, BFI is currently paid $5.93 per household per month for residential waste collection in direct costs from residential property tax; therefore, no tipping fees exist for BFI collected waste at Three Mile Canyon landfill.

Businesses are not currently assessed a fee for waste collection as part of their property taxes but pay a fee directly to BFI for this service. Prior to 2000, Summit County subsidized the cost of commercial businesses for waste collection, but did not do so under the current contract.

Previously, Contractor Waste Removal (CWR) had a franchise to collect construction waste throughout the County. In total, these two disposal companies collected 55,000 tons of waste in 1997. In 2003, the total volume of material disposed of at Three Mile Canyon and the Henefer landfills was estimated at 91,445 tons. Scales have now been installed at both landfills which will accurately reflect the tonnage of material disposed of at these landfills.

THE PROPOSED MEANS OF ASSESSING THE EFFECTIVENESS OF THE DEVELOPMENT PLAN OR OTHER PROGRAM SIMPLEMENTED WITHIN THE ZONE:

Park City Municipal Corporation will assess the effectiveness of the Recycling Market Development Zone through the participation of businesses and private citizens in recycling program. The City will also utilize the number of businesses which recycle, located within the Zone, as a measure to assess the effectiveness of the Recycling Market Development Zone and other related recycling programs.

Park City Municipal Corporation stated it would consider this program a success if it accomplished any increase in employment with the Zone. As a benchmark, the standard which was established to determine success was the creation of one new full time position per year and one new business per two years. In the past three years, two new businesses have been established, with a total of three employees.

Park City Municipal Corporation will encourage commercial manufacturing, processing and/or commercial composting in the proposed zone.

HOW WILL IT BE EFFECTIVE:

A STATEMENT OF WHETHER, WITHIN THE ZONE, THE FOLLOWING WILL BE ESTABLISHED.

1. COMMERCIAL MANUFACTURING OR INDUSTRIAL PROCESSES THAT WILL PRODUCE END USE PRODUCTS THAT CONSIST OF NOT LESS THAN 50% RECOVERED MATERIALS OF WHICH NOT LESS THAN 25% IS POST CONSUMER WASTE MATERIALS.

There are no current businesses which produce 25-50% (or more) recovered material products. If a business which has the potential for such production intends to locate within the Zone, the City will be supportive of this endeavor.

2. COMMERCIAL COMPOSTING

Park City would be supportive of a composting operation in order to prolong the life of the landfill. Currently there is no composting effort being operated in Park City.

<u>Incentives:</u>

- Businesses are allowed access to the Recycle Utah-operated, Park City Municipal Corporation-owned Recycling Center at 1951 Woodbine Way. The

Recycling Center will collect and process many types of recyclable materials free of charge to the participating businesses.

Possible Recycling Businesses:

Good Earth Recycling
Curb It Recycling
County Curbside
Park City Mountain Resort
Deer Valley Resort
Park City Signs
The Grub Stake Restaurant
Stein Eriksen Lodge
Albertsons
Dans Foods
Gart Brothers

City Council
Staff Report

Author:	**Lori W. Collett**
Subject:	**Finance Manager**
Date:	**December 9, 2004**
Type of Item:	**Administrative**

FINANCE DEPARTMENT

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

Description:
Topic: Audit report for the Fiscal Year Ended June 30, 2004.

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

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

- Introductory;
- Financial;
- Statistical; and
- Single Audit, Internal Control and Compliance Reports.

The Introductory Section contains a letter of transmittal, a directory of principal officials and an organizational chart of the City. The Financial Section contains management's discussion and analysis (MD&A), the basic financial statements, notes to the financial statements, individual fund statements for which data are not provided separately within the basic financial statements, as well as the independent auditor's report on these financial statements and schedules. The Statistical Section includes selected financial and demographic information, generally presented on a multi-year basis. The Single Audit, Internal Control and Compliance Reports include the independent auditors' reports on internal control and compliance as required by *Government Auditing Standards*, Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, and state compliance as required by the *State of Utah Legal Compliance Audit Guide*.

The CAFR is the major document used to communicate the City's financial condition. It is distributed to various bond-rating agencies, investors in City debt and the State Auditor for use in evaluating City finances. This is the second year the CAFR has been prepared using the new financial reporting requirements as prescribed by Governmental Accounting Standards Board (GASB) Statement No. 34, *Basic Financial Statements and Management's Discussion and Analysis-for State and Local Governments*. The first two basic financial statements, the Statement of Net Assets (Page 23-24) and the Statement of Activities (Page 25-26), now present information on a government-wide, full-accrual accounting basis which reflect the overall financial position of the City and its various funds, not just the amounts available for budgetary purposes. Fiscal operations in the government-wide statements are organized into two major activities: governmental and business-type.

Fund information is also presented for major funds individually and nonmajor funds combined in a single column in the basic financial statement (Pages 29 through 41). Because the focus is so different between fund statements and government-wide statements, a reconciliation between the two types of statements is necessary to understand how the numbers differ. Such reconciliations are provided on pages 30 and 32. Comparisons of "budget-to-actual" results for the General Fund are presented on Page 33.

Staff suggests attention be focused on the MD&A (Pages 4 through 20) and the notes to the basic financial statements (Pages 43 through 67). The notes to the basic financial statements in the Financial Section provide required detailed disclosures and a description of the financial statements.

The Statement of Net Assets (Page 23-24) may serve as a useful indicator of a government's financial position. The City had positive net assets of $163.8 million at fiscal year end. The largest portion of the net assets, $111.5 million, represents the investment in capital assets. The remaining $52.3 million in net assets are unrestricted and may be used to meet the City's ongoing obligations. Again, this is an overall financial position indicator and is not the amount of current resources available for budgetary purposes.

Looking at results on a fund basis (Page 29), the City's governmental funds reported combined ending fund balance of $42.8 million, an increase of $1.6 million compared to the beginning of year fund balance amount. Of the combined total fund balance, $13.3 million is available for spending at the discretion of the City (unreserved and undesignated fund balance). The General Fund unreserved and undesignated fund balance at June 30, 2004 totaled $2,992,064 and is 17.15 percent of the General Fund total revenues for the year and 22.5 percent of total governmental unreserved and undesignated fund balance.

General Obligation Bonds - Audit of Bond Expenditures

Resolution No.16-98, *Resolution to Appoint a Citizens Committee to Advise the City Council on Community Priorities for Open Space Acquisition, Methods to Permanently Preserve Open Space, and to Account for Expenditure of Open Space Bond Proceeds should Voters Approve a General Obligation Bond to Preserve Open Space*, requires the City to annually audit bond expenditures and report the results of such audit to the public. On September 10, 2003, the City issued General

Obligation Bonds, Series 2003 in the amount of $5,000,000. During the year ended June 30, 2004, the bond proceeds were used to purchase two parcels of land for a total of $4,749,602. The remaining proceeds of $250,398 were used to pay off a note for a previous fiscal year open space land purchase and costs of issuing the bonds.

Single Audit Report

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

As a part of the City's single audit, tests were made to determine the adequacy of the internal control structure, including that portion of the structure related to Federal financial assistance programs, as well as to determine that the City complied with all applicable laws and regulations. The results of the City's single audit for fiscal year 2003-04 indicated no instances of material weaknesses in the internal control structure or violation of applicable laws and regulations.

Comments from the City's Audit Firm of Deloitte and Touche LLP

The auditors identified no major improvement areas or areas involving material weakness in the operations or internal control structure of the City.

City Council
Staff Report

Legal Department

Author:	**Cindy LoPiccolo**
Subject:	**2005 Insurance Renewal**
Date:	**December 9, 2004**
Type of Item:	**Administrative**

Summary Recommendations:
Authorize the following insurance premium payments for workers compensation, property, public entity broad form liability, and crime insurance covering a one-year period from January 1, 2005 through January 1, 2006:

- $115,660 to States Self-Insurers Risk Retention Group, Inc. for public entity broad form liability insurance;
- $114,255.78 to Utah Local Governments Trust ("ULGT") for workers compensation insurance;
- $ 44,721 to Lloyds of London for property insurance;
- $ 3,589 to Travelers for Public Officials Employee Dishonesty (Crime);
- Self insure physical damage coverage for City buses; and
- Decline optional Terrorism Risk Insurance.

DESCRIPTION

Topic: 2005 Insurance Renewal.

Background: Insurance Market Status.

Through the year, the City's broker Marsh USA Risk and Insurance Services (Salt Lake City office), and Berkley Risk Administrators, Inc., helped inform Legal Department staff of the current insurance market trends and status. Staff also reviews insurance and risk management publications for market indications.

Due to a number of economic factors, general liability reinsurance and insurance markets have been in a state of turmoil the last several years and casualty/general liability premiums are projected to continue increasing at a slower rate, and/or limits reduced/deductibles increased, at least through 2005. Multi-year programs are no longer offered, coverage is determined on a year to year basis, and companies continue to look for alternatives. If a client chooses a better rated insurer, there will be significantly higher premiums. Overall, the insurance market place is shrinking with consolidations, mergers, and closures, and a record number of Risk Retention Groups have formed and continue to form.   Continued price hardness in the insurance market is viewed as the primary risk management challenge.

Directors and officers liability insurance (Crime) indications project a 15 percent increase and no softening is noticed in this area.

Workers compensation costs were also projected to continue rising, although at a slower rate. Since 2000, most employers have been hit annually by double-digit rate increases and some limited availability. Issues affecting the cost of workers compensation include medical treatment costs, increase in overall claim severity and frequency of claims. The Legal and Human Resources Department staff review options for the City and strive to minimize the cost and duration of claims.

On a better note, the property market has begun to stabilize, although the recent hurricane season had a slight adverse affect on this market.

City staff continues to strive to have correct safety procedures, processes and prevention methodologies in place so that risks are mitigated, close claims faster and cheaper, and improve risk situations. This year, the Legal Department assisted with: the Racquet Club Child Care Center improvements and State licensing; Public Works installation of special parking signs at the intersection of Park Ave. and Heber Ave. to improve the flow of City buses; Recreation, Police, and Public Works departments defibrillators and training; additional fire extinguishers within the Marsac Building. Legal Department staff also serves on an emergency planning committee whose directive is to update comprehensive Emergency Management Plans for the City.

<u>States Self-Insurers Risk Retention Group Program Information</u>.

The City has been a member of States Self-Insurers Trust/Risk Retention Group, Inc. for the past two years. States has provided the City with public entity broad form liability insurance. This year, States negotiated with and is backed by two world-class reinsurers, rated by A.M. Best as “A+” or better. Swiss Reinsurance America Corporation (60% share) and General Reinsurance Corporation (40% quota share). Negotiations concluded with an overall program rate increase from last year primarily due to impacts of the automobile liability line. Park City’s quote from States depends on a number of factors, including our self-insured retention level, limits of coverage purchased, specific exposures, loss experience, state immunities and tort caps, legal climate, etc.

States is a Vermont domiciled and licensed stock insurance company, formed in 1987 to meet the long-term excess liability needs of public entities and registered in most other states under the federal Risk Retention Act of 1986 to conduct the business of providing excess liability insurance coverage for its Members-Insured. In the state of Utah, States members include Davis County Corporation, Murray City Corporation, City of Provo, City of St. George, City of South Salt Lake, and South Utah Valley Solid Waste District, and new members Tooele County and the City of Bountiful. H. Craig Hall, Attorney for City of South Salt Lake, serves as Secretary on the States Self-Insurers Trust Board of Trustees and Director on the States Self-Insurers Risk Retention Group, Inc. Board of Directors. Don Wetzel, Murray City Corporation, serves as Trustee on the States Self-Insurers Trust Board of Trustees. States additionally has members from the states of Virginia, West Virginia, Colorado, South Carolina, Illinois, New Mexico, Texas, Tennessee, Maryland, Pennsylvania, Montana, Alabama, Ohio, Florida, and Arizona. Berkley Risk Administrators Company is administrator of the States RRG for underwriting, litigation and loss control, general risk management services, and training. Legal Department staff finds States and Berkley representatives exceptionally responsive, supportive and informed in regard to risk management and special coverage issues.

Analysis:

Insurance quotes have been received as follows:

A. Public Broad Form Liability. Park City's insurance broker sought pricing indications from carriers to see if they can compete with States for liability coverage, however, advised although minimum premium increases were slowing, they were still up over last year's premiums and the other carriers were still not able to compete against the States program quote and coverage this year. Two States quotes have been received as follows:

1. States Public Broad Form Liability 2005 coverage quote, Option 1: $115,660. A renewal application was submitted to States Self-Insurers Risk Retention Group, Inc. ("States") for public entity broad form liability policy covering 2005, which includes general liability, employment practices liability, automobile liability, law enforcement liability, and public officials error and omissions liability. The States public entity broad form liability coverage proposal provides limits of $5 million, and requires a $250,000 self-insured retention limit, the same as the prior two years. The States plan additionally includes employment practices liability, claim defense, and liability loss control services through its affiliate Berkley Risk Administrators Co. Although the City's general liability exposures dropped, this was offset by the increase in our fleet, primary City buses, and the overall program reinsurance rate increase.

2. States Public Broad Form Liability 2005 coverage quote, Option 2: $106,720. This coverage proposal provides limits identical to Option 1, however requires a $500,000 self-insured retention limit. Staff does not recommend this option due to the substantially higher SIR limit.

B. Workers Compensation. Two workers compensation quotes have been received as follows:

1. ULGT Workers Compensation quote: $114,255.78. ULGT is a non-profit insurance cooperative, owned and operated by its members, and offers a very competitive quote. ULGT has been in business to provide general

liability/casualty insurance to public agencies for 29 years, and as part of their program began offering workers compensation insurance January 1, 2004. ULGT submitted a quote that was $14,326.22 less than WCF.

Legal, Finance and Budget office staff have reviewed ULGT's most recent audited annual financial reports, annual reports, current reinsurer and claims data, and administrative information. Staff finds ULGT to have the necessary financial equity and reinsurance backing by outside A-rated carriers necessary to support the workers compensation program. ULGT has 257 workers comp members in the pool, with larger Utah members including: St. George, Spanish Fork, Brigham City, Tooele County. In view of the lower quote offered by ULGT, it is staff's recommendation to accept their bid for workers compensation insurance services.

2. WCF Workers Compensation reinsurance quote: $128,582. This 2005 WCF workers compensation premium quote is 10% increase over 2004. WCF has provided the City with workers compensation insurance for the past four years. Although the City has normal to above-average loss experience, workers compensation premiums have again increased due to higher medical costs. According to Marsh, WCF confirms that Park City remains in their Preferred rating tier and that they have applied the full 25% schedule credit allowed.

C. Property; and Crime.

1. Property cost of coverage: $44,721. The cost of property insurance is 1% more this year. Marsh obtained a reinsurance quote from Lloyds of London which is a conglomerate of A+ carriers that developed a property program tailored to public entities. Lloyds of London offers increased coverage in many categories i.e. policy limit, earth movement, flood, boiler & machinery, business interruption, bus loss (catastrophic loss, theft, vandalism – not collision), and newly acquired property, including lower deductibles for flood and earth movement.

   Pursuant to the Terrorism Risk Insurance Act, optional terrorism coverage information has been received from States. Staff discussed the appropriateness of the optional terrorism coverage for the City, and in view of Park City, and the state of Utah for that matter, categorized very low risk, staff recommends terrorism coverage be declined.

2. Public Officials Employee Dishonesty (Crime) cost of coverage: $3,589. Marsh was able to obtain a reinsurance quote from Travelers for this coverage for the same coverage as last year. Travelers will continue to underwrite all City employees, and does not offer criteria limiting the number of employees to those who expressly handle money for the City.

Department Review:

Staff has reviewed the City's exposures and options to insure the City in a responsible, reasonable and acceptable manner. The Legal Department consulted with all City departments for most current financial statement, payroll, fleet, transit, recreation, and safety program data.

Attachments:
1. Quote Summaries
2. ULGT Financial Report (Audited Financial Statement available from staff)
2. Marsh USA, Inc. Advisory Letters

ALTERNATIVES

A. Approve the insurance recommendations as presented.
B. Deny the recommendations. This is not recommended in regard to workers compensation coverage, which the City is required to provide.
C. Continue the item and provide direction to staff. This is also not recommended as there may be a lapse in coverage.

RECOMMENDATION

Staff recommends the City Council authorize the payment of premiums providing insurance coverage from January 1, 2005 through January 1, 2006 as follows:
1. $114,255.78 to ULGT for the City's workers compensation insurance;
2. $115,660 to States for public entity broad form liability insurance;
3. $ 44,721 to Lloyds of London for property insurance;
4. $ 3,589 to Travelers for public officials employee dishonesty (crime) insurance;
5. Self-insurance for physical damage coverage for City buses; and
6. Decline optional terrorism risk insurance.

INSURANCE PROPOSAL

To: Park City Municipal Corporation 445 Marsac Ave/ PO Box 1480 Park City UT 84060-1480 **Attn:** Cindy LoPicolo	**From:** Martin Ericson States Self-Insurers Risk Ret. Grp. 222 S Ninth St Suite 1300 Minneapolis, MN 55402-3332
Proposal For: Park City Municipal Corporation	**Proposal Expires On:** 1/1/2005

X Public Entity Broad Form Liability (including General Liability, Employment Practices Liability, Automobile Liability and Law Enforcement Liability and Public Officials Error & Omission Liability) in accordance with the terms, conditions and exclusions of the policy form.

ONE YEAR PROPOSAL

OPTION 1

Company Limits	Self-Insured Retention Limit	Premium	TRIA Charge	TOTAL
$5,000,000 /Occ/Agg	$250,000 /Occ	$114,514	$1,145	$115,660

OPTION 2

Company Limits	Self-Insured Retention Limit	Premium	TRIA Charge	TOTAL
$5,000,000 /Occ/Agg	$500,000 /Occ	$105,664	$1,057	$106,720

SPECIAL TERMS AND CONDITIONS

(1) All premiums are due at the inception date of the policy.
(2) Premiums will be annually rerated to reflect experience and exposure.
(3) Coverage exclusion for nursing homes
(4) Defense Costs Outside the Limit Endorsement
(5) A coverage exclusion for Mold.
(6) TRIA act coverage must be elected or rejected in writing. If rejected a full terrorism exclusion will apply.
(7) Policy Condition providing for Government Tort Cap & Immunity protection.
(8) Back wages & benefits exclusion for wages and benefits you would normally accrue for an employee.

***Please see attached for any additional terms and conditions.**

Martin A. Ericson — 12/1/2004

Signed **Date**

PARK CITY MUNICIPAL CORPORATION

Property Summary

Policy Year 1/1/2005 - 1/1/2006

Coverage Description	1/1/04-1/1/05 Lloyds of London	Renewal Quote Lloyds of London
Policy limit any one loss	$43,502,204	$43,955,39
Total Insured Values per Schedules		
Property	$34,928,515	$34,584,51
Golf Carts	$290,335	$290,33
Radio Equipment	$171,443	$171,44
Mobile/Contractors Equipment	$1,511,911	$1,409,10
Buses	$6,600,000	$7,500,00
Sublimits of Insurance:		
These limits are part of and not in addition to the total limit		
Earth Movement	Policy Limit	Policy Lim
Flood - All Locations except for the following;	Policy Limit	Policy Lim
Flood Zones A	$2,500,000	$2,500,00
Flood Zones V	Excluded	Exclude
Service Interruption	$250,000	$250,00
Boiler & Machinery Breakdown **	Policy Limit	$10,000,000*
Ammonia Contamination - B&M	Included	$100,00
Hazardous Substances - B&M	Included	$100,00
Business Interruption -B&M		$1,000,00
Newly Acquired Premises - B&M	N/A	$100,00
Extra Expense	$1,000,000	$1,000,00
Business Interruption/Gross Earnings	$5,000,000	$5,000,00

PARK CITY MUNICIPAL CORPORATION

Property Summary

Policy Year 1/1/2005 - 1/1/2006

Coverage Description	1/1/04-1/1/05 Lloyds of London	Renewal Quote Lloyds of London
Sublimits of Insurance:		
These limits are part of and not in addition to the total limit		
Loss to Buses resulting from Physical Damage **(Excluding Collision)**	$6,600,000	$7,500,00
Contractors Equipment	$1,511,000	$1,409,10
Golf Carts	$290,335	$290,33
Radio Dispatch Equipment	$171,443	$171,44
Fire Fighting Materials & Expenses	$50,000	$50,00
Expediting Expenses	$100,000	$100,00
Trees, Shrubs, Plants and Lawns	$100,000	$100,00
Land & Water Clean Up Expense	$250,000	$250,00
Newly Acquired Property	$10,000,000	$10,000,00
Accounts Receivable	$1,000,000	$1,000,00
Valuable Papers & Records	$1,000,000	$1,000,00
Electronic Data Processing Data and Media	$1,000,000	$1,000,00
Demolition & Increased Cost of Construction	$5,000,000	$5,000,00
Errors & Omissions	$5,000,000	$5,000,00
Course of Construction	$10,000,000	$10,000,00
Ordinance or Law Coverage	$10,000,000	$10,000,00
Loss of Rents	$5,000,000	$5,000,00
Revenue Interruption	$2,500,000	$2,500,00
Debris Removal	$1,000,000	$1,000,00
Leasehold Interest	$1,000,000	$1,000,00
Property of Others	$50,000 subject to $10,000 per	$50,000 subject to $10,000 per persc
Transit Coverage	Included	Include

PARK CITY MUNICIPAL CORPORATION

Property Summary

Policy Year 1/1/2005 - 1/1/2006

Coverage Description	1/1/04-1/1/05 Lloyds of London	Renewal Quote Lloyds of London
Deductibles		
Flood	$50,000	$50,00
Earth Movement	$100,000	$100,00
All Other Perils	$10,000	$10,00
Boiler & Machinery	$10,000	$5,00
Business Income & Extra Expense - B&M		24 Hour
Valuation	Property Damage-Replacement Cost Time Element-Actual Loss Sustained	Property Damage-Replacement Cos Time Element-Actual Loss Sustaine
Annual Premium	**$39,957**	**$37,83**
Boiler & Machinery	**$2,565** **Inspections Only**	**$5,18** **Coverage and Inspection**
Surplus Lines Taxes & Fees	**$1,798**	**$1,70**
Total Annual Property Premium & Fee	**$44,320**	**$44,72**
TRIA Coverage (Certified Acts of Terrorism Coverage)	Rejected Coverage	$3,78
Percentage of Premium change		1%

** Boiler & Machinery coverage was part of the Lloyds property policy in 2004 - 2005. This year a separate policy will be issued by Zurich.

City Council
Staff Report

Author:	**Phyllis McDonough Robinson**
Subject:	**AMENDMENT TO SALVAGE POLICY**
Date:	**December 9, 2004**
Type of Item:	**Legislative**

PARK CITY 1884

Budget, Debt and Grants

Summary Recommendations: Approve an amendment to the FY 2005 – 2006 Budget Policies modifying the Salvage Policy to include disposal by electronic auction as an allowable definition of public auction.

Description:

Topic:

Amendment to Salvage Policy

Background:

Departments within the City have expressed an interest in using e-Bay, an on-line auction site to dispose of surplus property. Surplus property is defined as any property that a department no longer needs for their day-to-day operations. Property, as defined by this policy includes, but is not limited to: rolling stock, machinery, furniture, tools and electronic equipment. City policy requires that the sale of City personal property shall be based, whenever possible, at public auction or upon competitive sealed bids. At issue is the definition of public auction to include on-line auctions.

Analysis:

State and local governments across the country have incorporated the use of on-line auctions as a means of disposing of government surplus. Governments are finding that using sites such as eBay, FirstGov, GovDeals or Bid4Assets.com to sell surplus goods online is more efficient and can yield a higher net return. The use of on-line auction sites significantly broadens the market, results in speedier disposal of surplus items and saves money by lowering inventory and disposal costs. For cities and counties that are trying to generate income and cut cost, those qualities make online auctions popular tools.

Many agencies report that the online auctions are netting them three times the revenue they formerly got from one-day local auctions. These estimates do not include the indirect savings in manpower and warehousing spaces. Surplus vehicles, for example, aren't taking up garage space, or maintenance and insurance dollars waiting for the next auction. Sealed bids and in person auctions can result in the jurisdiction paying for advertising, print catalogs and prolonged delays in disposing of property.

The State of Utah adopted the use of on-line auctions including eBay and eSurplus in addition to its traditional methods of resale after an analysis of its Surplus Property Program showed that it was losing money annually. In their analysis the use of on-line auction houses present economies of scale and allow lower transaction costs and higher than traditional demand.

Oregon has used online surplus auctions since 1998. The state reports a 250 percent increase in net revenues compared to the states' surplus outlet and auctions. The cost of a traditional auction was $15,000. Other analyses include Jacksonville, North Carolina who generates approximately $1,900 more per vehicle for 2002 models and $1,400 more per vehicles for 1997 models using online auction services. Tennessee recently analyzed sales of passenger cars and found that online auctions netted 47 percent higher prices than live auctions.

Items for sale by state and local governments range from traditionally defined surplus items such as office furniture, vehicles, and computer equipment. A recent survey of items recently offered for sale range from an 80 foot Uniroyal Tire by the City of Allen Park, Michigan that sold for $3,000 to boxes of used range balls in Edmond, Oklahoma selling for $36 a box. Among the more unusual sales include a passenger ferry auctioned by the State of Washington for $560,000 and 16,000 pounds of mussel shells, the by-product of a state wildlife resources agency project that created a bidding war among jewelry makes and sold for $25,000. Current postings on the State Utah Surplus eBay store include: binoculars, printers, hand held radios, miscellaneous batteries, digital cameras, and dog training equipment.

Local governments are also using eBay to sell items they would otherwise have to pay to have removed. Nashville-Davidson County found a customer willing to pay $6,000 to haul away a used stump grinder rather than paying $6,000 to have it hauled away. Franklin County, Ohio used eBay to dispose of a 200,000 gallon water tower that was sitting around collecting dust and made $10,000 in the process.

More than 300 police and fire agencies in 23 states use Property Bureau, an Internet auction service for law enforcement. Clients rang from Williamsport, Massachusetts police department with eight full-time officers to the New York Police Department with more than 39,000.

On-line auction houses are commission-based and vary depending upon the services provided. GovDeals.com charges 7.5 percent of the final sale price which is less than the 8 to 12 percent cost of live auction sales. Other sites such as Property Room keeps 25 to 50 percent of the proceeds, a price clients pay to have items picked up, cleaned, appraised, photographed, put online and delivered to the buyer. eBay is a percentage of the closing value with a base of 5.25% for items sold in a "eBay store." Oregon, for example, uses different sites depending on the item. The state generally uses eBay to sell things that are easy ship. Another site the state has found useful is Bid4Assets.com because of the support it provides in finding buyers

Consistency with City Salvage Policy

The main issue is whether an on-line auction meets the definition of a public auction. Given it potential to meet an even broader auction than traditional advertising, it is staff's opinion that an on-line auction is consistent with city policy. In the priority list of methods of disposal of property, live auctions are listed as the number one method. The policy does not have an advertising requirement for auctions in the same manner that it has for sealed bids. The reserve feature available on online auctions allows the city to retain its ability to reject bids.

Department Review:

Budget, Debt and Grants, Finance, Public Works and Legal have reviewed this staff report.

Alternatives:

A. Approve the Request:

Council could approve the request to modify the City's Salvage Policy (attached) to allow disposal by electronic auction as an acceptable means of public auction.

B. Deny the Request:

Council could deny the request and direct staff to maintain the existing Salvage Policy.

C. Continue the Item:

Council could continue the item and direct Staff to return with additional information.

Significant Impacts:

As referenced in the staff report, local and state governments report that on-line auction houses save administrative time and cost, generate higher sales costs and yield increased net revenue on the sale of surplus items. The modification modifying of the City Salvage Policy would have similar positive cost savings and revenue generation impacts.

Consequences of not taking the recommended action:

The consequence of not taking the recommended action is the loss of opportunity to generate increased revenue and reduced administrative costs in the sale of surplus property.

Recommendation:

Staff recommends that the City Council approve a modification to the City's Salvage Policy to allow disposal by electronic auction as an acceptable means of public auction and prepare the implementation plan.

Attachments: Proposed amendment to the City's Salvage Policy

SALVAGE POLICY

This policy establishes specific procedures and instructions for the disposition of surplus property. Surplus property is defined as any property that a department no longer needs for their day to day operations.

Personal Property of Park City Municipal Corporation is a fixed asset. It is important that accurate accounting of fixed assets is current. Personal property, as defined by this policy will include, but not limited to: rolling stock, machinery, furniture, tools, and electronic equipment. This property has been purchased with public money. It is important that the funds derived from the sale be accounted for and disposed property.

Responsibility for Property Inventory Control: It is the responsibilities of the Finance Manager to maintain an inventory for all personal property. The Finance Manager will be responsible for the disposition of all personal property. The Finance Manager will assist in the disposition of all personal property.

Disposition of an Asset: Department heads shall identify surplus personal property within the possession of their departments and report such property to the Finance Manager for consideration. The department head should clearly identify age, value, comprehensive description, condition and location. The Finance Manager will notify departments sixty (60) days in advance of pending surplus property sales.

Conveyance for Value: The transfer of City-owned personal property shall be the responsibility of the Finance Manager. Conveyance of property shall be based upon the highest and best economic return to the City, except that surplus City-owned property may be offered preferentially to units of government, non-profit or public organizations. The highest and best economic return to the city shall be estimated by one or more of the following methods in priority order:

1. Public auction
2. Sealed competitive bids
3. Evaluation by qualified and disinterested consultant
4. Professional publications and valuation services
5. Informal market survey by the Finance Manager in case of items of personal property possessing readily, discernable market value.

Sales of City personal property shall be based, whenever possible, upon competitive sealed bids or at public auction. Public auctions may be conducted on-site or through an internet-based auction site at the determination of the Finance Manager.The Finance Manager may, however waive this requirement when the value of the property has been estimated by an alternate method specified as follows:

1. The value of the property is considered negligible in relation to the cost of sale by bid or public auction;
2. Sale by bidding procedure or public auction are deemed unlikely to

produce a competitive bid;
3. Circumstances indicate that bidding or sale at public auction will no be in the best interest of the City; or,
4. The value of the property is less than $50.

In all cases the City will maintain the right to reject any or all bids or offers.

Revenues: All monies derived from the sale of personal property shall be credited to the general fund of the City, unless the property was purchased with money derived from an enterprise fund, or an internal service fund, in which case, the money shall be deposed in the general revenue account of the enterprise or internal service fund made the original purchase.

Advertising Sealed Bids: A notice of intent to dispose of surplus City property shall appear in two separate publications at least one week in advance in the Park Record. Notices shall also be posted at the public information bulletin board at Marsac.

Employee Participation: City employees and their direct family members are not eligible to participate in the disposal of surplus property unless;

1. Property is offered at public auction
2. If sealed bids are required and no bids are received from general public, a re-bidding may occur with employee participation.

Surplus Property Exclusion: The Park City Library receives property, books, magazines, and other items as donations from the public. Books, magazines, software, and other items can be disposed from the library's general collection through the Friends of the Library. The Friends of the Library is a non profit organization which sponsors an ongoing public sale open to the public located at the public Library for Park City residents.

Compliance: Failure to comply with any part of this policy may result in disciplinary action.

City Council
Staff Report

PUBLIC AFFAIRS

Author: Myles Rademan
Subject: PURCHASE HOPE MINING CLAIMS
Date: December 9, 2004
Type of Item: Administrative

Summary Recommendations: Authorize the City Manager to execute a purchase agreement (Exhibit A) for the approximately 112 acre Hope Mining Claims for $1.1 million, as recommended by COSAC on November 9, using proceeds from the $10 million open space bond passed in 2002, in a form approved by the City Attorney.

Description: Approximately 112 acres of historic patented mining claims in Deer Valley adjacent to the Gambel Oak parcel and the April Mountain subdivision

Topic: Open Space Property Purchase

Background: The City has acquired and protected thousands of acres of open space in and around the City. Two $10 million bonds over the past 5 years have provided the bulk of the monies for these acquisitions. The Citizen's Open Space Advisory Committee (COSAC) was established to make open space recommendations to the City Council. At their monthly meeting on Tuesday, November 9, 2004, COSAC's unanimously recommended that the City Council purchase the approximately 112 acre Hope Mining Claims for $1.1 million in Deer Valley using proceeds from the 2002 Open Space Bond.

It was determined that the Hope Mining Claims are key parcels of land bordered by the 90 acre Gambel Oak property over which the City has a recreation lease with the BLM, and the parcel is also criss-crossed with trails and has significant ridgelines and view corridors. Open space purchase would add to already significant open space and recreation uses in the area and would forestall development in this area.

The $1.1 million purchase price equates into approximately $9831 per acre which is consistent with Summit County's assessment of the property, and well within previous open space purchase price ranges. While the seller has not executed the purchase contract staff is confident they will and the transaction will close as planned by the end of 2004.

Analysis: This is a key parcel in the Deer Valley area and will insure continued open space and recreational uses. It will also strengthen the City's position in its negotiations with the BLM and Congress over the permanent fate of the 90 acre Gambel Oak parcel.

Department Review: City Manager, City Attorney, Planning Department

Alternatives:

- **Approve the Request: This is the recommended action.**

- **Deny the Request: The owners will likely pursue development plans they had previously initiated.**

- **Continue the Item: The owners wish to close by the end of the year so continuing the item may jeopardize the transaction.**

- **Do Nothing: Same as continuing the item.**

Significant Impacts: By purchasing the Hope Mining Claims the City preserves over 200 acres as open and recreation space in the Deer Valley area.

Consequences of not taking the recommended action: The owners of the property will most likely develop portions of the property with a number of large houses.

Recommendation: Purchase the Hope Mining Claims for $1.1 million and instruct the City Attorney and City Manager to prepare and execute the necessary documents so that the purchase can be consummated by the end of 2004.

REAL ESTATE PURCHASE CONTRACT

THIS AGREEMENT is made and entered into this ______ day of ______________, 2004, by and between **GENEVIEVE M. RICH** and **M. COURTNEY BRIGGS MELTON, PERSONAL REPRESENTATIVE FOR THE ESTATE OF MURIEL M. BRIGGS, Deceased,** and **JANE ELLEN STEWART; ELIZABETH ANN PEAY; SCOTT BYRNE WENTWORTH; KIRK CHAPMAN WENTWORTH;** and **MARK McCUNE WHITE, and Silver King Group, LC** (referred to hereafter as “Sellers”) and PARK CITY MUNICIPAL CORPORATION, a municipal corporation and political subdivision of the State of Utah (sometimes herein referred to as the “City” or “Buyer”), in consideration of the promises and covenants of the parties as set forth below:

1. PROPERTY. Sellers are the owners of 100% of the undivided interests in the undeveloped real property commonly referred to as The Hope and Emily Parcels, all of which is located in Summit County, State of Utah. Attached as Exhibit A is a legal description of the property which is subject to review and verification by the surveyor and title company. The property and all of the Sellers' interests therein shall be referred to collectively hereafter as the “Property”.

2. COUNCIL APPROVAL. Buyer can commit to purchase the Property only after formal approval of the City Council following public notice. If Council fails to approve of this Contract, this Contract shall be null and void. Buyer agrees to schedule this proposed acquisition for City Council action at the first available regular Council meeting.

3. SURVEY. A survey of the Property shall be completed by a licensed land surveyor to determine the boundary lines of the Property, a legal description, and the actual acres in each parcel. The surveyor shall examine the County records, as well as the legal descriptions attached hereto, and as necessary refer to the Summit County records, recognizing that the intent of this Agreement is to convey all of the property owned by the Sellers in this area.

4. PURCHASE PRICE. The Purchase Price is $1,100,000.

5. METHOD OF PAYMENT. The Purchase Price shall be paid in cash at the Closing, which shall be no later than December 17, 2004, following the execution of this Real Estate Purchase Contract by all parties and approval by the City Council.

6. CLOSING. The Closing shall take place on or before December 17, 2004 and shall occur only when all of the following have been completed:

A. Buyer and Sellers have signed and delivered to each other or to the escrow/closing office all documents required by this Agreement by written escrow instructions or by applicable law.

B. Any monies required to be paid by Buyer in accordance with the purchase contract shall have been delivered by Buyer to the escrow/closing office in the form of collected and cleared funds.

C. Any monies required to be paid by Sellers at the Closing and approved by Sellers shall be deducted from the purchase price. Sellers and Buyer shall each pay one-half (1/2) of the fee charged by the escrow/closing office for its services in the settlement/closing process. Taxes and assessments for the current year shall be prorated at Closing as set forth herein. Prorations described in this Section shall be made as of the date of Closing, which shall also be the date upon which possession shall be transferred.

D. The escrow/closing office shall prepare a Settlement Statement and provide a copy to each of the parties to this Agreement at least two (2) days prior to Closing.

The transaction shall be considered completed and "Closed" when the following have been completed: (i) the above-referenced documents have been completed and signed; (ii) the applicable Closing documents have been recorded in the office of the Summit County Recorder; and (iii) all sums due Sellers have been paid to Sellers in good and sufficient funds in accordance with instructions from Sellers.

7. <u>POSSESSION</u>. Sellers shall deliver physical possession of the Property to Buyer upon Closing.

8. <u>TITLE INSURANCE</u>. At the time of Closing Sellers shall pay for a standard coverage owner's policy of title insurance insuring Buyer in an amount equal to the purchase price.

9. <u>SELLERS' DISCLOSURES</u>. Sellers shall provide to Buyer the following documents, which are collectively referred to as the "Seller's Disclosures":

A. A Property Condition Disclosure Form supplied by Buyer shall be completed, signed, and dated by Sellers within ten (10) days of receipt of the form.

B. A Commitment of Title Insurance shall be supplied within ten (10) days of execution of this Agreement by all parties.

C. There are no leases affecting the property and none will be entered into prior to Closing.

D. Sellers are not aware of any claim or other conditions relating to environmental problems, building or zoning code violations.

10. CONTRACT DEADLINES. Buyer and Sellers agree that the following deadlines shall apply to the contract:

A. Evaluations and inspections deadline: 12/10/04

B. Settlement deadline: 12/17/04

11. BUYER'S RIGHT TO CANCEL BASED UPON EVALUATIONS AND INSPECTIONS. Buyer's obligation to purchase under this contract is conditioned upon Buyer's approval of the physical condition, inspection of the Property, and is conditioned upon Buyer's approval of any specific tests or evaluations of the Property that Buyer may perform. Buyer's obligation to purchase is conditioned upon Buyer's approval of the content of the Sellers' Disclosures referenced in Paragraph 9 above. Buyer shall complete evaluations and inspections, including but not limited to the Sellers' Disclosures, on or before December 10, 2004. If the Buyer determines that the Sellers' Disclosures or Buyer's Inspections are unacceptable, Buyer may no later than December 13, 2004, either: i) cancel this Contract by providing written notice to Sellers; or ii) provide Sellers with written notice of objections. If by December 13, 2004, Buyer does not cancel this Contract or deliver a written objection to Sellers regarding the Disclosures and Inspections, the Disclosures and Inspections shall be deemed approved by Buyer. If Buyer provides written objections to Sellers, Buyer and Sellers shall have seven (5) calendar days after Sellers' receipt of Buyer's objections (the "Response Period") in which to agree in writing upon the manner of resolving Buyer's objections. Sellers may, but shall not be required to, resolve Buyer's objections. If Buyer and Sellers have not agreed in writing upon the manner of resolving Buyer's objections, Buyer may waive such objections and proceed to closing, or cancel this Contract by providing written notice to Sellers no later than three (3) calendar days after expiration of the Response Period, whereupon this Contract is canceled.

12. DEED RESTRICTIONS. The following deed restrictions shall be included in the deed which shall be delivered by the Sellers on or before the date of Closing:

A. Open Space Deed Restriction. The following restriction shall appear on the deed conveying the property to Buyer:

> The property described in this deed is conveyed subject to a restrictive covenant effective as of the date of this deed; that the above-described property shall be maintained in perpetuity as open space, in perpetuity as an undeveloped park and recreational land; that no improvements be placed on the property except those which are consistent with the preservation and protection of the natural amenities; and that the conditions of the above-stated restrictions may be enforced by any person or organization consistent with the maintenance of open space and the objectives set out in this restrictive covenant.

13. SELLER'S WARRANTIES AND REPRESENTATIONS.

A. Condition of Title. Sellers represent that Sellers have the title to the property and, subject only to title exceptions disclosed and accepted or waived by Buyer, will convey good and marketable title to Buyer at Closing by Warranty Deed, with such warranty applying only to each Seller's respective undivided interest. Buyer agrees to be responsible for taxes, assessments, utilities, and other services provided to the Property after Closing. Sellers shall cause to be paid out by Closing all mortgages, trust deeds, judgment, mechanics liens, tax liens, and other assessments of any kind occurring prior to Closing.

B. Condition of the Property. Sellers acknowledge that there are no buildings or other improvements on the Property, except as disclosed, and that on the date Sellers deliver physical possession to the Buyer the natural condition and landscaping of the Property will be in the same general condition as they were on the date of this Agreement.

14. CHANGES DURING TRANSACTION. Sellers agree that from the date of acceptance until the date of Closing, no leases shall be entered into for the Property and no substantial alterations or improvements to the Property shall be made or undertaken and no new encumbrances shall be made to the Property.

15. AUTHORITY OF SIGNERS. The individuals signing this Agreement in behalf of Park City shall, by their signatures on this document, acknowledge and assure that they have proper authority to enter into this Agreement and sign the appropriate documents.

16. COMPLETE AGREEMENT. This Agreement, together with its addenda, any attached exhibits and Sellers' disclosure, constitutes the entire contract between the parties and supercedes and replaces any and all prior negotiations, representations, warranties, understandings and contracts between the parties.

17. DISPUTE RESOLUTION. The parties agree that any dispute arising prior to or after Closing related to this Agreement shall first be submitted to mediation. The dispute shall be submitted to mediation through a mediation provider mutually agreed upon by the parties. Each party agrees to bear its own cost of mediation. If the mediation fails, other procedures and remedies available under this contract shall apply. Nothing in this section shall prohibit any party from seeking emergency equitable relief pending mediation.

18. DEFAULT. If Buyer defaults, Sellers may either elect to retain the earnest money deposit as liquidated damages or to return it and sue Buyer to specifically perform this Contract or pursue other remedies available at law. If a Seller defaults, in addition to return of the earnest money, Buyer may elect to accept from the defaulting Seller only a sum equal to the earnest money deposit as liquidating damages or may

sue Sellers to specifically perform this Contract or pursue other remedies available at law. If Buyer elects to accept liquidated damages, the defaulting Seller agrees to pay the liquidated damages to Buyer upon demand.

19. ATTORNEY'S FEES AND COSTS. In the event of litigation or binding arbitration to enforce this contract, the prevailing party shall be entitled to costs and reasonable attorney's fees, including mediation expenses.

20. NOTICES. All notices required under this Contract must be: (a) in writing; (b) signed by the party giving notice; and (c) received by the other party or parties agent not later than the applicable date referenced in this Agreement.

21. RISK OF LOSS. All risk of loss to the Property, including physical damage or destruction of the Property or its improvements, due to any cause except ordinary wear and tear and loss caused by taking in eminent domain, shall be borne by Sellers until the transaction is closed.

22. TIME IS OF THE ESSENCE. Time is of the essence regarding the dates set forth in this Contract. Extensions must be agreed to in writing by all parties. Unless otherwise explicitly stated in this Contract: (a) performance under each Section of this Contract which references a date shall absolutely be required by 5:00 PM Mountain Time on the stated date; and (b) the term "days" shall mean calendar days and shall be counted beginning on the day following the event which triggers the timing requirement (i.e., Acceptance, receipt of the Sellers' Disclosures, etc.). Performance dates and times referenced herein shall not be binding upon title companies, lenders, appraisers and others not parties to this contract, except as so otherwise agreed to in writing by such non-party.

23. FAX TRANSMISSION AND COUNTERPARTS. Facsimile (fax) transmission of a signed copy of this Contract, any addenda and counteroffers, and the retransmission of any signed fax shall be the same as delivery of an original. This Contract and any addenda and counteroffers may be executed in counterparts.

24. ACCEPTANCE. "Acceptance" occurs when Seller or Buyer, responding to an offer or counteroffer of the other: (a) signs the offer or counteroffer where noted to indicated acceptance; and (b) communicates to the other party or to the other party's agent that the offer or counteroffer has been signed as required.

25. OFFER AND TIME FOR ACCEPTANCE. Sellers offer to sell the Property on the above terms and conditions. If Buyer does not accept this offer by 5:00 P.M. Mountain Time on December __, 2004, this offer shall lapse.

EXHIBIT A

Hope Parcel

The land referred to in the Commitment is described as follows: Summit County, Utah

Uintah Mining District – Summit County, Utah

The Emily Patented Lode Mining Claim, Lot No. 686, as the same is more particularly described in that certain Patent recorded December 6, 1910 as Entry No. 20518 uin Book F of Mining Deeds at Page 15 of the official record in the office of the Summit County Recorder.

The Hope Patented Lode Mining Claim, Lot No. 687, as the same is more particularly described in that certain Patient recorded December 6, 1910 as Entry No. 20518 in Book F of Mining Deeds at Page 15 of the official records in the office of the Summit County Recorder.

The Alvina Patented Lode Mining Claim, Lot No. 688, as the same is more particularly described in that certain Patent recorded December 6, 1910 as Entry No. 20518 in Book F of Mining Deeds at Page 15 of the official records in the office of the Summit County Recorder.

The Hope No. 2 Patented Lode Mining Claim, Lot No. 3262, as the same is more particularly described in that certain Patent recorded January 11, 1911 as Entry No. 20627 in Book F of Mining Deeds at Page 34 of the official records in the office of the Summit County Recorder.

The Emily No. 2 Patented Lode Mining Claim, Lot No. 3262, as the same is more particularly described in that certain Patent recorded January 11, 1911 as Entry No. 20627 in Book F of Mining Deeds at Page 34 of the official records in the office of the Summit County Recorder.

The Emma Patented Lode Mining Claim, Lot No. 3262, as the same is more particularly described in that certain Patent recorded January 11, 1911 as Entry No. 20627 in Book F of Mining Deeds at Page 34 of the official records in the office of the Summit County Recorder.

Summit County Tax Serial No’s. SA-2-33 and SA-S-35

City Council
Staff Report

Author:	**Kirsten Whetstone**
Subject:	**7815 Royal Street East**
Date:	**December 9, 2004**
Type of Item:	**Reconsideration of City Council final action on the Record of Survey plat for Building C of the Chateaux at Silver Lake.**

Summary Recommendations
Staff recommends the City Council review the reconsideration request, hear testimony from the Petitioner, and deny the request for reconsideration.

Description
Topic

Petitioners:	Noel and Florence Rothman
Applicant:	Silver Lake Associates
Owners:	Silver Lake Associates and Chateaux Owners Association
Location:	7815 Royal Street East
Zoning:	Residential Development (RD). Subject to the Deer Valley Master Planned Development, as amended
Application:	September 17, 2004
City Council Action:	November 11, 2004
Date of reconsideration request:	November 30, 2004

Background

On November 11, 2004 the City Council took final action on a request for an amended record of survey plat for Building C and a portion of the parking structure based on findings of fact, conclusions of law, and conditions of approval as stated in the November 11, 2004 staff report (see packet for 11/11/04). At the November 11, 2004 meeting, Planning Staff read into the record a 2 page letter from Steven W. Dougherty, representing Noel and Florence Rothmans concerns with the noticing of an administrative Conditional Use permit for a Private Residence Club approved by the Planning Staff on November 4, 2004. The City Council discussed the concerns outlined in the Dougherty letter, conducted a public hearing, and voted to approved the record of survey plat amendments as stated in the November 11, 2004 staff report.

Substance of reconsideration
LMC Section 15-1-18 states:

> (N) **RECONSIDERATION**. The City Council, and any Board or Commission, may reconsider at any time any legislative decision upon an affirmative vote of a majority of that body. The City Council, and any Board or Commission, may

reconsider any quasi-judicial decision upon an affirmative vote of a majority of that body at any time prior to Final Action. Any action taken by the deciding body shall not be reconsidered or rescinded at a special meeting unless the number of members of the deciding body present at the special meeting is equal to or greater than the number of members present at the meeting when the action was approved.

On November 30, 2005 staff received a written request from Noel and Florence Rothman, owners at the Chateaux at Silver Lake, asking the City Council to reconsider the November 11, 2004 approval of the plat amendment (see attached reconsideration request)

1. Plat/Record of Survey Amendments Are Not Legislative

Although adopted by Ordinance, plat amendments are not legislative and therefore not eligible for reconsideration unless the request was made prior to Final Action. In this case, the approval was November 11, 2004 and included adopting the necessary findings, conclusions of law and conditions of approval. Even if the Council determines the matter "legislative," the request was still not timely as the Ordinance was already published on November 17th (required of all ordinances by state code in order to become effective) so the Ordinance was already legally effective at the time the request for reconsideration was received. Council would now have to affirmatively repeal the ordinance, and would have to follow the plat amendment process to do so.

2. Even if the Council Considers the Merits of the Request, Reconsideration is not Warranted.

The petitioners reasons for the request are followed by staff responses in ***italics***.

The Petitioner claims that they did not receive proper notice of the plat amendment hearing.

The required noticing for the plat amendment was perfected by posting notice on the property on October 12, 2004 before the October 27, 2004 Planning Commission hearing and November 11, 2004 City Council hearing. A legal notice was placed in the Park Record and a courtesy written notice was also sent to property owners within 300' of the project at least 14 days prior to taking final action. Section 15-1-12(c) specifically allows notice to an Owner's Association, if a subject Property is a condominium. Section 15-1-12(C) of the Land Management Code states that courtesy notice is not a legal requirement, and any defect in courtesy notice shall not affect or invalidate any hearing or action by the City Council or any Board or Commission.

Section 15-1-12 (D) provides that "proof that notice was given pursuant to subsections (A) and (B) above is prima facie evidence that notice was properly given." Notice via posting the property and publication was perfected as required by the Land Management Code. The required LMC notice was thus accomplished

here and no defect in any courtesy noticing should invalidate the plat amendment approval.

The petitioner also writes that “Utah Code Section 809 requires that notice of a proposed plat change be given by mailing the notice to each owner of property located within 300 feet of the property that is the subject of the proposed plat change, addressed to the owner’s mailing address.”

The Petitioners also state the following:

“Rather than giving such notice, although specific request for the same was made in writing to the Planning Department, the Petitioners understand that the notice was only given to the Chateaux Homeowners Association, which is controlled by the developer, Silver Lake Associates. Indeed Silverlake Associates, LLC, knowing that the majority of the non-developer unit owners at the Chateaux project opposed the application, would not have given notice to those owners.”

Proper notice for the Plat Amendment was provided, in terms of a timely legal notice in the Park Record, posting of the property, and a courtesy notice letter sent to property owners within 300’ (according to the list generated by the applicant’s title company and provided to the Planning staff). The Appellant did in fact hear about the public hearing and did provide detailed input to the City Council at the hearing on the plat amendment, in the form of a two page letter (referenced above in #1 as Exhibit A of the appeal) that was read into the record.

The Council discussed the Plat Amendment in some detail, considered the public input from the Petitioner’s representative, and did take final action to approve the plat amendment according to the findings of fact, conclusions of law, and conditions of approval as stated in the November 11, 2004 staff report. As for the request for personal courtesy notice, staff admits and regrets its oversight in failing to deliver the requested notice. Staff notes, however, that any such notice would be a courtesy and any defect in said notice should not invalidate an otherwise valid and proper plat amendment approval.

Further, the Petitioners have appealed a Conditional Use Permit granted to the developer to allow Building C in the Chateaux project to be marketed as timeshares or fractional interest, under the more sophisticated label of “Private Residence Club”. That appeal will be heard by the Planning Commission on December 8, 2004. As the plat amendment is driven by the developer’s plans to convert Building C … to timeshares, while the remaining units including Petitioner’s are whole-ownership only, the Petitioners request the City Council stay the plat amendment pending Planning Commission’s review of the appeal, or further appeal to the City Council in order that both matters may be heard together.

The Planning Commission will hear the appeal of the November 4, 2004 approval of the administrative Conditional Use Permit for the Private Residence Club on

December 8, 2004. Staff will inform the City Council as to the outcome of this appeal hearing.

The Petitioner's letter continues as follows:

"Had notice been given, the Petitioners would have argued the inherent conflict of interests in the developer's control of the homeowners association (and thereby notice to its members) and the numerous marketing misrepresentations made by the developer in selling units in Buildings A and B that the units in the project, including Building C would be whole ownership units and that the common areas would be common to the entire project. Further, Petitioners would have shown to the contrary to the representations made by the developer, the request to convert these whole ownership units to fraction interest units was not approved by two-thirds (2/3) of the existing unit owners at a Homeowners Association meeting.

Further, Petitioners would have shown the adverse impact to the marketability and value of their properties in Buildings A and B if Building C is converted to a fractional interest property. Finally, the Petitioners would have shown the numerous issues that will arise from the conversion of common area for the entire project to exclusive common area just for Building C, and the impact on the common area of the entire Project of the increased use of fractional interest units in Building C and the imposition of higher costs of the Homeowner's Association from such increased use. Accordingly, such fractional ownership use of Building C is not compatible with surrounding structures in use or circulation and the differences in use have not been mitigated. In addition, and for the same reasons, the plat amendment to facilitate the fractional ownership sales and use causes material injury to the Petitioners which would preclude amendment under Utah Code Section 109-9-801 (1) (b).

First, regarding any issues of conflict of interest within the Chateaux HOA, staff notes that those are private issues between the parties and do not present grounds to appeal the CUP. Secondly, as to the Appellant's arguments respecting impact upon property values and compatibility of fractional ownership with surrounding structures in use or circulation, Staff notes that the appeal letter lacks factual support. At this time Staff is unable to respond to these allegations owing to this lack of factual support and notes that the findings of fact, conclusions of law, and conditions of approval are uncontroverted by the appeal letter.

Finally, the appeal concludes as follows:
Petitioners request that the City Council act on the request and reconsider the plat amendment application and allow the Petitioners the opportunity to be heard, and in the interim, stay the effectiveness of any plat amendment pending conclusion of all appeals and such reconsideration.

Staff suggests that the Council consider staying the effectiveness of the plat amendment only if the Planning Commission continues or favorably considers the CUP appeal.

Staff Recommendation
Staff recommends that the City Council deny the request for reconsideration.