

**PARK CITY COUNCIL SPECIAL MEETING
SUMMIT COUNTY, UTAH
JANUARY 2, 1996**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold a special meeting on Tuesday, January 2, 1996, at 10 a.m. at the auditorium of the Park City Education Center, 1255 Park Avenue for the purpose of discussing public response to recent disclosures by Councilmember-elect Paul Sincock. This is an open and public meeting.

Posted: 12/30/95

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I ROLL CALL

The Mayor called the special meeting of the City Council to order at approximately 10 a.m. at the Park City Library and Education Center auditorium on Tuesday, January 2, 1996. Members in attendance were Brad Olch, Hugh Daniels, Roger Harlan, Shauna Kerr, and Chuck Klingenstein. Paul Sincock was present for a portion of the meeting.

II PUBLIC HEARING

Discussion to public response to recent disclosures by Councilmember-elect Paul Sincock - See minutes of emergency meeting of December 29, 1995. The Mayor clarified that the previous Council's terms of office expired December 31, 1995 and even though Paul Sincock, Chuck Klingenstein and Hugh Daniels have not been sworn in, he felt that it is appropriate for the new Councilmembers to be seated with the members continuing with their terms of office. He recognized the outgoing members of the City Council that are present, Ruth Gezelius and Leslie Miller. Lou Hudson will be attending.

Mayor Olch announced that the majority of the previously seated City Council requested an emergency meeting on Friday morning to discuss the press reports about Councilmember-elect Sincock. This meeting was held as an open and public meeting. The Councilmembers had many questions that needed to be addressed and most have been answered by memo from the City Attorney. At that time it was decided to meet again to discuss the findings of the City Attorney. He emphasized that the Council is interested in public input and the swearing-in of the new Councilmembers will take place as scheduled on Wednesday, January 3, 1996 at 5:30 p.m. at the Miners Hospital Community Center.

Mayor Olch then asked the current and past Councilmembers if they have any questions about the memo. Roger Harlan expressed that the Mayor's, Ms. Kerr's, and his integrity were impugned on the radio this morning (KPCW interview with Leslie Miller) and felt it beneficial to reveal the protected memo to the public. Ms. Kerr stated that she was not prepared to say anything today, until she was personally attacked on the radio this morning, and felt that there should be a response to clarify the Council's motivation in this matter. Ms. Kerr continued that she is conscious of Mr. Sincock's privacy and felt that it should be up to him to open the contents of the protected memo. Mr. Sincock indicated that it could be opened. Ms. Kerr asked if there is a seated quorum as the new Council has not been sworn in, and Ms. Hoffman responded that Article 4, Section 9(3) of the State Constitution indicates that the terms of officers elected in the general election shall commence on the first Monday in January following the date of their election. That would have been yesterday and it is her understanding that the newly elected Council is now seated. There is an additional obligation to take the oath of office, as scheduled on Wednesday, but there is common law in Utah which states that even though a Councilmember hasn't taken the oath of office, it doesn't

defeat his status as a seated Councilmember.

Shauna Kerr, "With that information, I move that we open the protected memorandum and disclose it as a public document". Roger Harlan seconded. Motion unanimously carried.

In response to a question from Chuck Klingenstein, Ms. Hoffman explained that it is Mr. Tesch's position that the definition within the Open and Public Meetings Act, UCA 52-4, somehow limits our ability to meet today. Ms. Hoffman continued that in reality the definition is there to define when we must meet in public, when we can't meet behind closed doors or casually or informally. It is defined to make sure that the public's business is conducted in open as opposed to make sure that the public does not conduct business at all. The authority is provided for under UCA 10-3-502 which allows for special meetings which can be held at any time to discuss any City business. Ms. Hoffman interprets this to mean that Council can meet any time to discuss any matter that is of concern to the City. The Mayor then recognized that past Councilmember Lou Hudson was in the audience and asked if there were any questions from current and past Councilmembers. Shauna Kerr urged the City Attorney to read the memo into the record because it answers questions that she raised at last Friday's meeting and questions of the public, including the validity of the election and the citizenship issue. The City Attorney read the memo into the record, which is attached and made a part of these minutes.

Roger Harlan expressed that if it had not been for the KPCW interview with Leslie Miller which he felt impugned his integrity and Shauna Kerr's and the Mayor's, he would not have suggested that this memo become public, but in light of what was said, he felt that he had no other alternative. The Mayor invited Councilmember Sincock to speak.

Mr. Sincock stated that he has prepared a press release which is available to the public, and made a part of these minutes. He discussed that he was unaware of the level of public scrutiny of public officials, and relayed that his counsel has advised him not to comment on his case with the Utah State Tax Commission and that Mr. Tesch will do that for him.

Mr. Tesch stated that the newspaper article has given the wrong impression about Mr. Sincock and his tax situation. He discussed the much improved practices of the Internal Revenue Service and how the Utah State Tax Commission differs in its methods and service. He stressed that Mr. Sincock is not a libertarian and is a main-stream Park City kind of a person. Though illustrations of slides, Mr. Tesch discussed the history of taxation in the United States, citing circumstances where traditional Americans felt they were being treated unfairly by tax practices. Mr. Tesch noted the income categories exempt from paying federal income taxes and explained that when Mr. Sincock moved to Utah in 1989, he had just sold a business and began a mediation/arbitration business. Mr. Tesch stated that Mr. Sincock invested a lot of money in his new business and didn't make much money through the years 1989 to 1993 and didn't fall within the

minimum to file a federal form. Mr. Tesch displayed several slides of correspondence with the IRS including a letter from the federal government indicating that he did not have to file a tax return through the years 1990 through 1993. Mr. Tesch then discussed the Utah Constitution, Article 1, Section 1 which addresses the inalienable rights to enjoy life, liberty, and to acquire, possess and protect property. He referred to Mr. Sincock's campaign philosophy that all political power is inherent in the people, not the government. Mr. Tesch continued that Mr. Sincock elected to represent himself in his case against the Utah Tax Commission and stated that he is the "world's worst lawyer", but as an individual he has the right to try. He referred to the Utah Tax Code which indicates that residents who file federal returns are required to file state returns and if a person fails to file a return, the Tax Commission will make such return on its own knowledge and on such information as it can obtain through testimony or otherwise. Mr. Tesch alleged that the Tax Commission assumed Mr. Sincock's salary on the minimum federal wage to prepare his tax returns. He discussed the penalties and the liens on Mr. Sincock's property. Mr. Tesch discussed correspondence with the Utah Tax Commission and again emphasized that it is the law that if you don't have to file a federal income tax return, you don't have to file a state income tax return. He discussed a tax form prepared by the Utah Tax Commission for 1990 which assumed that Mr. Sincock had an income of \$61,586 and every year thereafter, the income was increased incrementally through consumer price index projections. He alleged that Mr. Sincock's salary was based on the average salary in Summit County and the consumer price index. Michelle Bush from the Attorney General's Office, interjected that the Utah Tax Commission based its figures on 1989 state and federal returns; these projections are indicated on the statutory notes on the schedule.

Mr. Tesch explained the back taxes and penalties estimated by the Utah Tax Commission totaling \$32,000. The penalties are not based on the facts and the Utah Tax Commission's conclusion is manufactured from thin air. He then discussed a letter sent to Mr. Sincock from the Utah Tax Commission, demanding the \$32,000 and failure to comply would result on a lien on his property. Mr. Tesch clarified Mr. Sincock's defense to the Utah Tax Commission which argued that he is not a citizen of the United States based on specific language in the Tax Code.

Mr. Tesch stated that he objects to this special meeting because you can't call a meeting to talk about the color of the mayor's car, or the weather, or to "hang a guy out" and he felt that's what has happened here. He continued that the reason there is no jurisdiction here and the reason there is nothing for the City Council to act upon are based on two sections of the Utah Code. Title 28 of the Utah Code provides that if you contest an election, you have to be a voter and you have to do it in the proper manner in the District Court and no city council can act. Mr. Tesch discussed Section 52, which was discussed by the City Attorney earlier. He read a provision of that section describing a meeting as a meeting of a public body with a quorum present, which he questioned, for the purpose of discussing or acting upon a matter over which the public body has jurisdiction or advisory powers. He emphasized that there is no jurisdiction here or advisory power. He felt that the *Park Record* article was incorrect and warned the audience of believing half truths or false information. Mr. Tesch again noted that this is an illegal meeting as the notice was faulty

and there is no quorum and a majority of a quorum is required to request a meeting. This is not a matter that the Council has jurisdiction over or has any advisory power. This is a fire storm for political purposes only and he has advised Paul Sincock, because this is an illegal meeting, to leave. Mr. Tesch has also advised Mr. Sincock to leave based on Mr. Sincock's philosophy that he will not attend closed meetings, which Mr. Sincock believes are not properly called. He added that Mr. Sincock wants to hear everyone's legitimate concerns based on truth and actual fact. If that is not the case, Mr. Tesch vowed to protect Mr. Sincock the best that he can. At this point in the meeting, Mr. Tesch and Mr. Sincock left the building. The Mayor invited the public to comment.

Bob Powers, resident, stated that he voted for Paul Sincock based on what he knew about him and was disturbed by this news story. He felt that Park City is at a point where a lot of people don't have faith in the local government and that this would further divide the community. Mr. Powers didn't feel that people came here to harass Mr. Sincock but there is the interest of our city on charges that were made. Most people here want to find out what has occurred which Mr. Tesch has explained. Mr. Powers took exception that this is an illegal meeting.

Leslie Miller, past Councilmember, stated that she was pleased that her earlier comments on KPCW provoked the Council to open the information in the protected memorandum. She expressed her anger at not being given the professional courtesy by being properly notified of the emergency meeting on Friday and felt that if she were in attendance, this meeting would not have been necessary. She felt that these questions could be answered at a regularly scheduled meeting. She stated that she is not here to defend any person, but rather the democratic process. Ms. Miller indicated that the Mayor has informed her that she is no longer a member of the City Council and may not take part in this meeting in that capacity, despite the fact that the new Council has not been sworn-in. She continued that she did not know if this meeting is legal, but no amount of creative legal interpretation can make it ethical. Last week after reading a newspaper article, the Mayor called a emergency meeting on 90 minutes notice, and although she was one block away, the meeting went on without her and Lou Hudson. It is interesting that the Mayor and City Manager could arrange to have the Salt Lake City news media present, but not all the members of the elected City Council. It is also interesting that supporters of out-going Councilmember Ruth Gezelius were notified of the meeting and were in attendance on Friday. Ms. Miller stated that she received only one phone call from Tom Hurd, a concerned citizen, on Thursday evening. The alleged mass hysteria and public reaction which was the reason for the emergency meeting, seems to have missed her. Friday's meeting did not meet the spirit or the intent of the Park City ordinance for emergency meetings. The meeting on Friday and today have nothing to do with governance and everything to do with politics. Ms. Miller stated that these meetings were called because certain members of this body, the Mayor, the City Manager, and City Attorney saw a political opening to oust somebody they apparently consider a political enemy. These meetings were called to see if Paul Sincock could be kept from taking office as a Councilmember, after being duly elected by the people of this town. The Mayor and the City Manager, as well as Roger Harlan and Shauna Kerr may say they are responding to public outcry, but the City has no jurisdiction in this matter according to state law. She noted that

these individuals have supported all proposals of the Mayor and the City Manager throughout her term. Ms. Miller commented that the City Attorney hasn't been able to find a way to keep Paul Sincock out of office. She felt that this speaks well of the democratic protections we enjoy. If these measures weren't in place, she believed that her former colleagues would keep Paul from taking office. Now that they have discovered no legal basis for nullifying election results, they are making every attempt to discredit and humiliate Mr. Sincock with this illegal public hearing. She emphasized that she has had nothing to do with this staged circus and she is not proud of her association with the Mayor, the City Manager and the City Attorney. This is a perfect example of why she decided not to run for reelection. This Council is not dedicated to the people of this community but dedicated to themselves, to political expediency, and to their own special interests. The new Councilmembers were elected to replace this kind of politics with something that reflects the true nature of the good people of Park City. The Park City she knew once was a kinder and gentler place. People will remember this awful day and hold accountable these politicians for their unsavory actions. Ms. Miller then left the building.

Ray Johnson, past Councilmember, stated that he prepares tax returns for corporations and relayed that all individuals must file tax returns regardless of tax liability. He urged Mr. Sincock to simply file his tax reports.

Bruce Margolias, resident, felt that the events of the meeting were interesting. Mr. Sincock and his lawyer decided this was an illegal meeting. Mr. Sincock spoke briefly and provided a press release and Mr. Tesch spoke at great length and told us that Mr. Sincock is not a tax protestor and because the meeting was illegal, they left. Mr. Margolias stated that during the campaign he recalled Mr. Sincock telling us that he was the candidate who was going to listen to the people and that he was a mediator and he would build consensus by listening and bringing us together. He noted that what Mr. Sincock has done this morning is to refuse to listen to him, and everyone else who came here with something to say, but to go out and probably hold a press conference on the steps of the building. Mr. Margolias continued that if this is the way he will conduct himself in office, there is good reason to pay attention to what Mr. Sincock does while in office.

Roger Harlan stated that Leslie Miller was scheduled to be interviewed on KPCW on Friday and she did not show up for the interview, claiming that she was ill. Ms. Kerr emphasized that with regard to Mr. Tesch's comments that this meeting is illegal and his insinuation that anyone that says anything which is contrary to Mr. Sincock could be liable for a slander action, were intended to silence this meeting and she is fully convinced that this meeting is legal and encouraged public input.

Peter Budnik, resident, stated that this is a very bizarre meeting and situation and is an indication of how we govern in the United States. This is about those who have power and those who don't and the manipulation of the press. He noted that he is a libertarian and this is about individuals seeking change. Mr. Budnick also noted that this is a battle of the attorneys but that we

can fight for ourselves and he wished Mr. Sincock luck in his fight against the Tax Commission.

Maria Booth, resident, stated that this matter concerns her because she works for several charitable organizations in town that rely on state and federal funding. Funding comes from taxes and without that funding, the organizations would not be able to help the less fortunate. It concerns her when an elected official on the air, states that he is "tweaking" the system. Pushing the envelope in not paying taxes offends her; it may be fine for a private individual but it is inappropriate for an elected official. She thanked the City Council for holding the meeting. Ms. Booth stated that Mr. Sincock was able to make his case, but pointed out that the Tax Commission was not able to do that and there are probably two sides to the story and the public only heard one. She urged the media to report on both sides.

David Belz, resident, stated that he is a supporter of Paul Sincock and it is his understanding that he has the right to take office. The intent of this meeting should have been that the issues have been looked at, and Mr. Sincock has the right to take office. He agreed with the assertion that there is an attempt to create a public display on this matter which is not fair to Paul Sincock. Mr. Belz noted that he does not know Mr. Sincock that well but he appears to be a thinking man, has a background in architecture and mediation which are things that are critical to a good City Councilmember in these times. It would be a travesty if public opinion was turned with these events compromising Paul's ability to do the things we elected him to do. He voted for him then and would vote for him now. Mr. Belz added that he believes in taxation and the fruits of living here in America, but all of the facts are not known and Mr. Sincock may contribute to charities.

Kathy Mears, stated that she has lived here for 20 years and that this is a really painful meeting. She explained that she and Leslie Miller have been friends for many years and wished that she had not left the meeting. Ms. Mears indicated that she shares Ms. Miller's pain in reminiscing when Park City was a kinder and gentler town. She noted that the name-calling is disgusting, and applauded the staff and City Council for holding this meeting as this matter is important to the community. Ms. Mears felt that Paul Sincock had an opportunity to show his good faith, and she now has a different opinion about Paul after this meeting today. She felt that he should step forward. Ms. Mears stressed that we should stop the name-bashing and get on with the respect people have for this community and move forward.

Ruth Gezelius, past Councilmember, stated that on Thursday she logged in 75 telephone calls on this matter and this is a large community issue. One of the biggest concerns in this country deals with lawlessness and the relation of how we function together as a society. She continued that if we don't follow common rules, lawlessness results and the calls she has received are about following the same rules with regard to regulations that apply to all of us. The second concern alludes to confidence in government and disclosure. She stated that there is a perception with members in the community that this philosophy was not shared in the previous campaign and the opportunity to develop confidence in government has been lost which is regrettable. Ms.

Gezelius hoped that there could be a positive resolution to this matter.

Kate Dordin, resident, stated that she voted for Paul Sincock. She noted that she didn't know if this meeting was legal or not, but does not believe that there is a plot to get Paul Sincock. She has heard his interview and was not satisfied with his comments, but perhaps that was the lack of his own articulation that particular morning. She emphasized that this is not anybody's else fault but Mr. Sincock's.

Bob Powers indicated that Ms. Miller's "diatribe" was inappropriate.

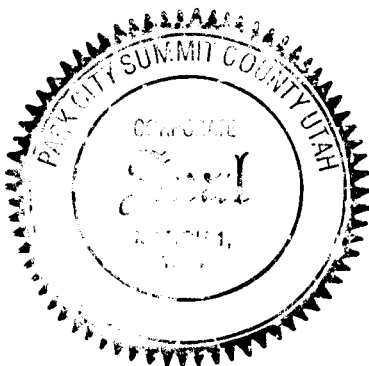
The Mayor stated that this meeting was held for the public. He added that he is not going to debate what Ms. Miller has said as he already addressed her comments on the radio. He felt that the insinuations made about the City Manager and City Attorney are unfortunate as they are just trying to do their jobs the best way that they can. Mayor Olch noted that he has never seen an issue come up that has prompted so much debate as this one. He had hoped that the new Council would start off on a positive note and it was disappointing to hear this story last Thursday. Because of the response of the citizens who called him and other Councilmembers, Brad Olch stated that it was in the best interest of the community to call an emergency meeting last Friday. He emphasized that all of the Councilmembers were notified at the same time; only three attended. This was an informational meeting to learn what this Council could do under the law and at no time did any member make any insinuations or accusations against Mr. Sincock and the focus was what is best for the community. He hoped that this could be put behind us as he looks forward to working with the new Council. The Mayor invited the public to the swearing-in ceremony.

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

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

Prepared by Janet M. Scott



Janet M. Scott, Deputy City Recorder



Legal Department

Protected Attorney-Client Privileged Memorandum

Date: 12/30/95
To: The Honorable Bradley A. Olch, Mayor
Members of the City Council
CC: Toby Ross, City Manager
From: Jodi Hoffman, City Attorney
Subject: Qualifications for Council Office

On Friday December 29, 1995 you asked for a legal opinion regarding Paul Sincock's qualifications for Council office and the legal ramifications if Mr. Sincock fails to assume, or is removed from, office. Since then, Council member Miller has asked for clarification of the criteria and notice provisions for Friday's emergency meeting and for Tuesday's special meeting. Joe Tesch, the lawyer Paul has hired to represent him against the City in this matter claims that the Council is forbidden from meeting where, as in this case, the Council has not scheduled a matter for action. What follows is an explanation of events and of the relevant legal principles as I understand them.

The Utah Code establishes eligibility and residency requirements for elected municipal officials. Every candidate for municipal office must be: 1) a registered voter; 2) a United States citizen; and 3) a resident of the municipality in which the person seeks office for at least one year immediately before the date of the election. UCA §10-3-301(a); UCA §20A-9-203. Once elected, the Council member must maintain residency within the municipality (and hence the state and nation) or resign his/her office. §10-3-301(3). The Park City Municipal Code further provides that "Before entering the duties of his office, every Council member, the Mayor and other City officers shall take, subscribe before, and file with the City Recorder an oath or affirmation that he will support the Constitution of the United States, the Constitution of the state of Utah and the ordinances of the City and will faithfully perform the duties of the office." PCMC §2-2-10.

On Thursday, the news media reported that Mr. Sincock has asserted in pleadings contesting a Utah income tax assessment that he is not a citizen of the United States nor a citizen of the state of Utah. Several citizens and Council members have since that asked if it is true that Mr. Sincock has asserted that he is not a citizen of the state or the country, how can he take office as a Council member? I have reviewed the pleadings on which the media reports have been based, have talked with Paul and with the Assistant Attorneys

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General assigned to Paul's tax case and assigned to investigate election irregularities. After review of the foregoing, I am convinced that Paul meets the citizenship, eligibility and residency requirements for office and should be sworn into office in the normal course of events.

In his state tax case, Paul asserts that he is not a citizen or resident of a "State" or of the "United States" *as those terms are defined in Title 26 USC 3121(e)(1) and (2) (the Internal Revenue Code)*. This is a technical argument, based on the language in the specific section of the Internal Revenue Code. It does not appear to be an assertion that he has renounced his citizenship or that he lives elsewhere.¹

Several have asked whether Paul's legal dispute with the State Tax Commission disqualifies him from office, based on a perceived contradiction between the positions that he asserts in his tax case and the oath that he must swear to uphold the law. Having looked into the matter *briefly* (24 hours) it is my opinion that Mr. Sincock's assertion of claims against the State Tax Commission are not in *legal* contradiction of the oath he must swear.

Many people have expressed concern with Paul taking office because they feel that he should have disclosed his philosophy regarding income taxes during the election, and they now assert that they would not have voted for him had they known of his views. There is no requirement at law for complete disclosure of all political philosophies during a campaign. I perceive no violation of the campaign laws based on Paul's silence on this matter during the campaign.

Other citizens have asserted that it *must* be malfeasance of office to fail to pay or to attempt to evade paying state income taxes. At *some* point, failure to pay state income taxes is criminal and unquestionably would constitute grounds for removal from office. However, thus far, Paul's dispute with the state remains at the civil (non-criminal) level. Further, malfeasance in office generally pertains to criminal acts while in office. Under Utah law, the Utah Attorney General (not the City Attorney) initially determines whether an elected official has engaged in illegal campaign practices or malfeasance in office. If the Council or any member of the public which voted in the last election desires, they can forward this question to the Attorney General.

You asked me to detail how the seat would be filled if Paul decided not to take office at this time. Based on my recent conversations with Paul, it is *highly* unlikely that he will not be sworn in. (The Council has no discretion to refuse him office, if he is prepared to take the Oath of Office.) However, if a candidate fails to take office after an election,

¹ 26 USC 3121(e)(1) is a definition of the word State within the federal tax code. It reads: "The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa." Paul argues that this definition excludes the state of Utah, because it is not specifically listed.

26 USC 3121(e)(2) is a definition of United States within the federal tax code. It reads: "The term "United States," when used in a geographical sense, includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa." Paul argues that this definition excludes the 50 states of the Union, because they are not specifically listed.

but *before* the inception of his term, the next candidate with the most votes in the election would take office. In the last election, there were two candidates that were tied with the next most votes. Under Utah law, the election officer (Anita Sheldon) would select between the two by lot. UCA §20A-1-304. If there is a vacancy in a councilmanic office *after* the inception of the term, the remaining Council would appoint a registered voter in the municipality to fulfill the remainder of the unexpired term. UCA §20A-1-510.

Council member Miller has asked for the authority upon which Friday's Council meeting was held, the criteria for closed sessions and the criteria for who may call an emergency meeting. She has expressed considerable dissatisfaction with the notice she received.

Friday's meeting was held pursuant to UCA §52-4-6(4) which reads:

When because of unforeseen circumstances it is necessary for a public body to hold an emergency meeting to consider matters of an emergency or urgent nature, the notice requirements of Section 52-4-6(2) may be disregarded and the best notice practicable given. No such emergency meeting of a public body shall be held unless an attempt has been made to notify all of its members and a majority votes in the affirmative to hold the meeting.

The meeting was held at the request of four Council members and the Mayor, based on citizens' expressions of concern regarding the media reports of Thursday and Friday morning. The matter was urgent, because the close of the present Council's term and the immediacy of the Council-elect's swearing in afforded no further opportunity for the present Council to discuss the matter. Council was initially prepared to discuss the matter in closed session, pursuant to UCA §52-4-5(1)(a)(i) (discussion of the character, professional competence, or physical or mental health of an individual). Without a full Council present, the attending members refrained from adjourning into closed session and directed me to research and report on the legal ramifications of the week's events. The Council then scheduled a special meeting for Tuesday at 10:00 a.m., pursuant to UCA §10-3-502. Please take note that the special meeting is scheduled to be held at the Park City Library and Education Center Auditorium. (The City Council chambers are occupied on Tuesdays by the Municipal Court).

Joe Tesch, on Paul's behalf, called me this weekend to argue that the Council is forbidden from meeting on Tuesday pursuant to UCA §52-4-2.¹ UCA §52-4-2 defines the types of meetings which *must be open* to the public. It does not define the subject matters about which a meeting may be held. The section is a definition section in Title 52, Chapter 4, "Open and Public Meetings." The expressed purpose and intent of the chapter is to ensure that the public's business is conducted openly. UCA §52-4-1. To paraphrase, UCA §52-4-2(2)(a) states that anytime the Council meets to deliberate or act upon a

¹ UCA §52-4-2 (2)(a) reads: "'Meeting' means the convening of a public body, with a quorum present, whether in person or by means of electronic equipment, for the purpose of discussing or acting upon a matter over which the public body has jurisdiction or advisory power."

matter over which it has jurisdiction or advisory power, the Council meeting must be open to the public. Joe argues that, because (he believes) the Council cannot act on the Sincok disclosures, the Council cannot meet in public.

UCA §10-3-502 establishes that the mayor or any two council members may call a special meeting at any time to discuss the business of the City. Assuring public confidence in the Council is certainly the business of the City. The public has requested an opportunity to be advised of the Council's options. At a minimum Council has the power to listen, respond to, and advise them. In my opinion, the public meeting scheduled for Tuesday morning is fully within the Council's legal authority.

At this point, I would like to caution the Council and the Council elect regarding dissemination of the information provided herein. The merits of Paul's legal arguments with regard to his state tax challenge is a matter that will be decided by the state courts and not by public opinion. He is entitled to his day in court. No member of the Council or the Council elect should intentionally divulge the information contained herein in any manner. Improper comment could prejudice Paul's case.

To that end, I strongly advise the Council to:

1. receive "public input only" on Tuesday;
2. refrain from commenting publicly on the tax case if at all possible;
3. refrain from asking me to comment publicly on the merits of the tax case, if at all possible; and
4. seek my advice on any further aspect of this matter by telephone, or in closed session.

This is an attorney-client privileged, protected memorandum, the contents of which must not be disclosed to third parties without the consent of the majority of the Council. For the benefit of the Council elect: it has been my past practice to collect and seal Protected memos after the Council has read them to ensure the attorney-client privilege and to protect against inadvertent distribution. I would like to collect these after the meeting on Tuesday. Please do not allow friends, family or associates to read this memorandum without a prior affirmative vote of the majority of the Council authorizing the disclosure.

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FOR IMMEDIATE RELEASE

TO: Citizens of Park City & the news media
FROM: Paul F. Sincock
DATE: 1/2/96
REF: Park Record article and other news media concerning me.

Recently, press reports have characterized me as someone who looks like a crazy tax protester and suggesting I'm not a legal citizen of the United States and Utah.

I'd like to apologize to the citizens of Park City for this unfortunate but untrue characterization and to assure everyone that nothing could be further from the truth. I have paid taxes for the past 35 years, raised a family, owned and operated businesses and participated actively in the Park City community since moving here in 1990.

Although press reports of my lawsuit with the Utah Tax Commission were incomplete and centered on two sentences out of 30± pages of documents filed, I will accept the blame for the misunderstanding. I hope, however, that future reports will focus on the central issue of my complaint and what forced me to file it in the first place.

While I'm sorry for the confusion, I also want to say that it comes out of a good faith effort on my part to challenge what I believe to be an erroneous finding of the Tax Commission, without any basis in fact and their subsequent lack of response to my inquiries concerning it.

Perhaps my biggest mistake was believing that as a citizen I could make my responses and inquiries plain to the tax commission without benefit of an expensive tax attorney. I have always believed that as a citizen I could (and should be able to) gain access to the federal, state, local government and the courts without hiring an attorney. In this case involving the Utah Tax Commission, I was clearly wrong.

During the last couple of years, the Internal Revenue Service and the Utah Tax Commission have had the same facts, information and similar correspondence and inquiries which I made with both agencies. The IRS concluded that, in fact, I did not

have a tax liability which required filing a return. The Utah Tax Commission, on the other hand, was unwilling to participate in any kind of constructive dialogue and continually ignored inquiries I made by sending mostly unresponsive computer-generated demands. Eventually, they invented a "projected" tax liability based on the "consumer price index" and began demands for payment. In response, I initiated legal action against the Tax Commission.

In the complaint I filed for myself, without benefit of an attorney, I used every argument I could find in support of my position, including the very strange definitions of the "United States" in the IRS code, which were taken out of context and used in press reports. If I had been a tax attorney, or hired one, I probably would have known that particular part of my argument would have been fruitless. But when that faux pau is put in the context of my dispute with the Tax Commission it will be clear that I have always paid, and continue to be willing to pay, all income taxes that apply to me, just like you do.

I am a United States citizen by birth and a citizen of Utah by residence. The two sentences quoted from the lawsuit are narrow legal definitions from the IRS code and have nothing to do with being a citizen by birth, residency or naturalization. If questions are raised concerning my actions or strategy in dealing with tax issues, I will answer and be accountable for them. My strategy may prove to be wrong or right, but it is my right and my intention to see it through to the end. Eventually, it will all get decided and I will comply with the outcome.

I hope reporters and the community, through the news media, will come to see this episode for what it really is . . . a citizen attempting to get fair and equitable treatment from a Tax Commission which in my view, has acted unfairly and arbitrarily.

During my campaign I emphasized that rights reside in the people, not in the institutions of government. I believe that when government acts arrogantly and arbitrarily, citizens must stand up for their rights and I will continue to advocate this belief during my term as your city council person.

If you have further questions, please call me at 649-8121 after 1:30 p.m.

Paul Sincock