PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
NOVEMBER 14, 2002

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, November 14, 2002.

Closed Session

2:30 p.m. Property

Work Session

3:20 p.m. Council questions/comments
3:50 p.m. Analysis of Main Street uses
Review of regular meeting:
4:10 p.m. Resolution of intent - Administration of Main Street Business Improvement District
4:30 p.m. Master festival license applications
4:50 p.m. Plat amendment
5:00 p.m. Municipal Code amendments
5:30 p.m. Presentation to Leo Witt
5:45 p.m. Break

Regular Meeting

6:00 p.m.

I **ROLL CALL**

II **PUBLIC INPUT**

III **COMMUNICATIONS FROM COUNCIL AND STAFF**

IV **WORK SESSION NOTES AND MINUTES OF MEETING OF OCTOBER 3, 2002**

V **CONSENT AGENDA PUBLIC HEARING**

1. Master Festival License for the Freestyle World Championships at Deer Valley and Lower Main Street from January 30, through February 1, 2003

2. Master Festival License for the Mountain Extreme Triathlon to be held July 11, 2003 - Rock & Road LLC

3. Master Festival License for employee appreciation party to be held at City Park on December 12, 2002 - Park City Chamber Bureau

4. Ordinance approving the amended record of survey for a plat amendment to combine all of Lot 18 and part of Lot 16, 17 and 19 of Block 65, Park City Survey into one lot of record at 345 Deer Valley Drive, Park City, Utah

5. Ordinance amending Title 4, Chapter 15 of the Park City Municipal Code, regulating licensing of for-hire vehicles

6. Ordinance amending Title 4, Chapter 2 of the Park City Municipal Code, Business Licensing in General (Business Improvement District)

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5. Ordinance amending Title 4, Chapter 15 of the Park City Municipal Code, regulating licensing of for-hire vehicles

6. Ordinance amending Title 4, Chapter 2 of the Park City Municipal Code, Business Licensing in General (Business Improvement District)

7. Resolution determining the results of a special bond election held in the City on the question of the issuance by the City of $10,000,000 of general obligation bonds to acquire and forever preserve undeveloped park and recreational land and to make improvements to lands so preserved to protect the natural amenities and provide for public access and use, and related matters

VII OLD BUSINESS

Resolution declaring the intention of the Park City Council to enter into a contract with the Historic Main Street Business Alliance for the administration of the Old Town Business Improvement District for fiscal year 2003-2004

VIII ADJOURNMENT

Posted: 11/11/02
see: parkcity.org

PARK CITY WORK SESSION NOTES
SUMMIT COUNTY, UTAH
NOVEMBER 14, 2002

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

Tom Bakaly, Acting City Manager; Mark Harrington, City Attorney; Myles Rademan, Public Affairs Director; Rick Lewis, Community Development Director; Mark Christensen, Grants and Budget Manager; Alison Butz, Special Events and Facilities Manager; Michelle Barrus, Special Events and Facilities Coordinator

Sally Elliott, Utah Escapades; Rob Valli, Wild Dog Mushing Company

1. **Council questions/comments.** Candace Erickson discussed the Library's website, specifically features for kids. She reported that employee Barbara Spruill obtained a $2,500 grant for books relating to an Hispanic outreach program and discussed other programs offered by the Library. Peg Bodell explained that Mountainlands Community Housing has a program where volunteers help build housing and asked Council members to email her if interested in taking on a project for a day. She added that Mountainlands will be updating Council at an upcoming meeting where the City's affordable housing strategic plan will be presented. There was discussion about appointing COSAC members, and Myles Rademan explained the process, terms, and qualifications and/or skills of members. It is anticipated that appointments will be made at the December 19 meeting. As a member of the former COSAC group, Jim Hier pointed out the importance of appointing a good chairperson and complimented Bob Richer for his leadership on the prior board. Fred Jones felt the terms should not be staggered. Reporting back to Council and orientation of members was discussed by Myles Rademan. Peg Bodell felt that professional designations should be assigned to seats and Myles Rademan explained that was the previous approach.

Fred Jones brought up the commercial dog sledding proposal in Round Valley, briefly outlined in the manager's report. Tom Bakaly explained that this proposal will go to the Parks and Recreation Board this month before Council's review. In response to a question from Mr. Hier, Mr. Bakaly explained the Board's purview relates to trail use. Applicant Sally Elliott explained that many Colorado resorts offer dog sledding activities and Round Valley seems like a good location. Use of the trail doesn't have to be exclusive. There are already commercial bike, cross-country, and snow-shoeing providers on the trails. Rob Valli of Wild Dog Mushing Company explained that he is the holder of a Summit County business license, kennel permit, and liability insurance. The National Ability Center indicated its willingness to provide access and is interested in offering dog-sledding to its clients. He explained that he operated at Strawberry Reservoir for two seasons and Rocking R Ranch in Oakley last year. The Homestead invited him to operate on the golf course this season. With regard to conflicts, Mr. Valli stated that he has his dogs under control and believed that would be the case with others; he has not encountered problems in the past. Mayor Williams expressed that this is an appropriate use for open space, but is concerned about the level of insurance and Mr. Valli indicated that he is willing to increase coverage. Tom Bakaly interjected that if this is something Council is interested in exploring, the City would have to go through a selection process and enter into a contract and lease, similar to White Pine Touring. Ms. Elliott emphasized that they are not looking for exclusive use, precluding other companies. Rob Valli added that he has met every requirement possible and there are other companies that don't have kennel permits or business licenses. If these requirements are not met, it is difficult to impossible to obtain liability insurance. Council supported review by the Parks and Recreation Board and Fred Jones added that it doesn't need to be a complicated process nor does the license need to be exclusive. The master agenda schedule was discussed.

Mayor Williams expressed his condolences on the passing of Officer Jack Terry. He stated that he and staff met with representatives from Brighton Estates and he personally met with Glen Brown, Director of UDOT on the transfer of SR224. The Mayor explained that although UDOT has not provided year-round access to Brighton Estates, it expects the City to do so because year-round access will be available to adjacent properties through the approval and development of Flagstaff.

2. **Analysis of Main Street uses.** Rick Lewis explained that this is part of the economic development strategic plan which is being developed with the HMBA and the Chamber. This is a status report and not a final report and Mr. Lewis displayed a computer assisted presentation. During the period of 1998 through 2002, there has been a 21% decrease in square footage of retail replaced by an increase of real estate (4%) and restaurants (13%). Total office use increased by 25,000 square feet (13% to 17%); real estate office space increased from 6,000 to 22,600 square feet over the five year period (2% to 6%). In 1998, there were seven real estate business licenses on Main Street and in 2002, 18 licenses. He continued that there has been a 12% decrease in retail business licenses over the period and a slight decrease in restaurants. In response to a suggestion from the HMBA, a measurement of linear feet of real estate store fronts was analyzed. There is about 4,000 linear feet on Main Street and Heber Avenue, of which 177 linear feet or 9% is real estate while 82% represents restaurants and retail.

Mark Christensen stated that one of the questions frequently asked is the amount of sales tax generated on Main Street compared to other areas. His calculation includes sales, resort and transit tax; it does not include taxes collected by Summit County. Through illustration of a chart, he explained that in 1994 Main Street represented about 8% and in 1997-98 it peaked to 16% where it has remained constant. Restaurants represent about 49% while retail generates about 42%. In response to a question from Peg Bodell about Town Lift revenues, Mr. Christensen responded that he believes those numbers are reflected in the recreation category. He discussed quarterly sales tax numbers indicating an increase in 1997-98, leveling off in 2000-02, and spiking in 2002. Restaurants are the highest generators of sales tax with office use the lowest. Mr.

Christensen discussed differences with business mix and sales tax revenues on upper and lower Main Street and specifically lodging trends. He emphasized that this information is not a detailed analysis but information regarding trends. Mayor Williams expressed his interest in finding information about the loss of potential sales tax revenues because of the number of professional offices on Man Street. Mr. Christensen believed that the work involved in this report can be used for further analyses and helpful to the HMBA in developing its strategic plan. In response to a question from Kay Calvert about the effects of paid parking, Mark Christensen indicated when paid parking came on line in 1997-98 there is a slight increase in sales tax revenues. The Mayor pointed out that who knows how much higher sales tax could have been if paid parking weren't in place. Peg Bodell felt it would be helpful to know what retail Main Street is missing compared to successes in other resort communities. Jim Hier suggested that Mr. Christensen be available to assist the HMBA in providing information for its strategic plan.

Review of regular meeting:

Resolution of intent - administration of Main Street Business Improvement District. Fred Jones asked if removing the administrative cost recovery provision is consistent with past contractual actions. With regard to special service contracts, Mark Christensen indicated that a waiver of the costs is typical, however, with regard to taxi regulation, for instance, full cost recovery is included in the ordinance.

Master festival license applications. Alison Butz explained that the 2003 Freestyle World Championships are held every two years. As part of the agreement to host the event this year, Deer Valley must make this a community event. There will be an evening concert on Friday, January 31 from 6 p.m. - 9 p.m. on lower Main Street, and on Saturday from 1 p.m. to 9 p.m., there will be an award ceremony and other celebrations on Main Street. The aerial finals will be held under lights on Saturday and both the Main Street and Deer Valley events will conclude with fireworks. The street closure is anticipated to begin Wednesday, January 29 for stage construction and continue through late Saturday night or Sunday morning. Parking and transportation will be accommodated through Lewis Brothers shuttles from Kimball Junction at the old K-Mart site. The overhead signs on I-80 and electronic signs on SR224 will be used to direct patrons. Residents are encouraged to use our bus system. Staff is finalizing security needs with Deer Valley. She relayed that Deer Valley is requesting fee waivers. Fred Jones encouraged minimizing the impacts of breaking down the event on Saturday evening. Ms. Butz continued that there will be a live-feed video show of the aerial event and Main Street may be the area for overflow for spectators. In response to a question from Kay Calvert regarding security, Ms. Butz explained that it is our policy that unless there is notice of a direct threat, security is not heightened.

She explained that the Mountain Extreme Triathlon is proposing to begin the event on Friday, July 11 at 6 a.m. and conclude on July 12 at 6 a.m. It will begin at the Jordanelle for a 2.5 mile swim, followed by a 112 mile bike ride, and a 26.2 mile run on trails and some City streets. Organizers will stage the event on the east side of Treasure Mountain Middle School and there are no significant City fees. There was discussion about turning the sound system down because of cheering at the conclusion of the competition.

Michelle Barrus described the employee party sponsored by the Chamber/Bureau which will be held at City Park from 6 p.m. to 9 p.m. on December 12. It is anticipated that there will be 200 to 300 people in attendance.

Municipal Code amendments. Mark Christensen explained that minor amendments are recommended to the recently adopted taxi ordinance.

4. **Presentation to Leo Witt.** Chief Lloyd Evans stated that Leo Witt joined the police force in 1981 and described his many contributions to the community. The Mayor presented a framed duty badge to Officer Witt in appreciation of his 21 years of service.

Prepared by Janet M. Scott, City Recorder

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
NOVEMBER 14, 2002

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, November 14, 2002. Members in attendance were Dana Williams, Peg Bodell, Kay Calvert, Candace Erickson, Jim Hier, and Fred Jones. Staff present were Tom Bakaly, Acting City Manager; Mark Harrington, City Attorney; Alison Butz, Special Events and Facilities Manager; Michelle Barrus, Special Events and Facilities Coordinator; Mark Christensen, Grants and Budget Manager; and Kevin LoPiccolo, Planner.

II PUBLIC INPUT

The Mayor invited the public to comment on any matter of City business not scheduled on the agenda.

Olympic legacy tower - Elizabeth Swank, resident, stated that the process will be violated if the Council overrules the Planning Commission's denial of the CUP for the tower. The Commission applied the rules and arrived at the conclusion that the tower did not conform with the frontage protection zone. Overruling their decision is an insult to them and the only reason the Council should reverse a decision is if health and welfare is an issue. There was public input but the project was not juried by the community, like the transit center which took two years. If there was a jury process, we'd probably come up with something better in that location. Ms. Swank stated that she is not against the tower, but the tower in that location. Changing the rules sets a very dangerous precedent and the process should be respected. The plaza doesn't attract visitors and the educational elements already there should be moved somewhere else. She suggested that the Olympic Welcome Plaza be used as a music park.

Outdoor sale of art - Steve White, artist advocate, explained that he challenged Littleton, Colorado about four years about its misuse of vendor laws and businesses license procedures against artists in Clements Park. More specifically, he challenged artists not having public access on public property, to perform, to display, and to ask for and receive money for creative expression. This is part of our 1st Amendment constitutional rights. He discussed the entry fees associated with Littleton's summer art festival which is held in the park and Park City is doing the same thing. This sets a legal precedent in denying him equal access to public property and denying him alternatives. This is also in violation of equal protection rights outlined in the 14th Amendment. Mr. White indicated that he threatened Littleton with a $30 million lawsuit which resulted in opening 180 parks. He should not have to be afraid to paint on public property. Park City government officials have advised him that he can display without a license but can't sell his art work. Mr. White explained that New York City lost a case because fine arts have a higher level of protection than spoken words and the sale of protected materials is also protected. The U. S. Supreme Court in 1988 decided that a speakers rights are not lost merely because compensation is received. He insisted that his art work is his words; it is not a commodity or merchandise and does not fall under Park City's business or vendor ordinances. The paintings fall under free speech. All of us have the right to use public property, which is a public forum, for ideas and concepts. We also have the right to ask for and receive money for our speaking in order to run a campaign for public office. He has the right to speak to the public through his paintings and receive money for his *words*. Park City is allowing special interest groups to profit from constitutional violations and it is shameful. Mr. White stated that he would like to have a dialog with the City; although he is willing to litigate because he won't *stand for it for one more minute*.

Hearing no further comments, the public input session was closed.

III COMMUNICATIONS FROM COUNCIL AND STAFF

1. Reduction and/or waiver of fee for the display of public art - Peg Bodell discussed a situation where the $150 fee for a permit to display public art is too steep for an individual artist. She requested support from the Council to delegate administrative authority to reduce fees to the Community Development Director. The City Attorney recalled a section in the Municipal Code where the City Manager can grant a waiver or reduction in fees due to hardship, but will research the matter. The Land Management Code regulates the display of public art. Tom Bakaly recalled that there was the option to include hardship language when fees were updated on October 3, but Council opted not to include the provision. He offered to research this further and return to Council.

2. Call-up of denial of conditional use for Olympic legacy tower - Jim Hier, "I move that we (Council) call-up the November 13, 2002 Planning Commission denial of the conditional use permit for the Olympic legacy tower to be located at 1455 Snow Creek Drive, also known as the Olympic Welcome Plaza". Mr. Hier emphasized that he is not making the motion as an *insult* the Planning Commission (see public input), but feels that this project is broader than the LMC. Fred Jones seconded. Motion carried.

Peg Bodell	Nay
Kay Calvert	Aye
Candace Erickson	Aye
Jim Hier	Aye
Fred Jones	Aye

IV WORK SESSION NOTES AND MINUTES OF MEETING OF OCTOBER 3, 2002

Peg Bodell, "I move approval of the Minutes". Kay Calvert seconded. Motion carried unanimously.

V CONSENT AGENDA PUBLIC HEARING

1. Master Festival License for the Freestyle World Championships at Deer Valley and Lower Main Street from January 30, through February 1, 2003 - Alison Butz explained that approval of the MFL would allow the closure of lower Main Street from Heber to 9th Avenue on January 29 through February 2, or sooner depending on dismantling efforts. Mayor Williams opened the public hearing.

Mike Sweeney, property owner, stated that he is in support of this event and other activities to promote Main Street. Hearing no further comments from the Council or the public, the public hearing was closed.

2. Master Festival License for the Mountain Extreme Triathlon to be held July 11, 2003 - Rock & Road LLC - Alison Butz reported that this 24 hour competition will be staged at the Treasure Mountain Middle School. Hearing no questions or comments from the City Council or members of the audience, the public hearing was closed.

3. Master Festival License for employee appreciation party to be held at City Park on December 12, 2002 - Park City Chamber Bureau - Michelle Barrus recommended that the public have an opportunity to comment. Hearing no questions or comments from the public, the Mayor closed the public hearing.

4. Ordinance approving the amended record of survey for a plat amendment to combine all of Lot 18 and part of Lot 16, 17 and 19 of Block 65, Park City Survey into one lot of record at 345 Deer Valley Drive, Park City, Utah - Kevin LoPiccolo, Planner, explained that the Planning Commission forwarded a positive recommendation on October 23. This will enable the property owner to construct a duplex on the lot, which is a permitted use in the LMC. Hearing no comments from the Council, the Mayor invited public input. Hearing none, the public hearing was closed.

5. Ordinance amending Title 4, Chapter 15 of the Park City Municipal Code, regulating licensing of for-hire vehicles - Mark Christensen explained that there were minor errors in the recently adopted ordinance and recommended these amendments. In response to a question from Kay Calvert, Mr. Christensen explained that he has not heard any feedback from providers but expected a bulk of comments in the next few weeks. Hearing no further comments from the Council or the public, the Mayor closed the public hearing.

6. Ordinance amending Title 4, Chapter 2 of the Park City Municipal Code, Business Licensing in General (Business Improvement District) - Mark Christensen explained that this incorporates a provision in the Code for businesses within the specified boundaries to pay an additional assessment to support the District. The Mayor opened the public hearing.

Mike Sweeney, property owner, asked and received clarification on paying a prorated fee after January. He felt the interest rate of 18% per annum is excessive in today's market. Mark Christensen explained the benefits in creating a standard which is consistent with business license penalties. Tom Bakaly added that the high rate is designed to encourage payment and to cover administrative and/or collection costs. It also prompts motivation to pay on time. Mr. Christensen added that this is a common rate for a short term loan or credit card. Fred Jones stated that he is not interested in lowering the rate. He felt that the City should not be competitive with lenders; this is to help someone with no other option.

Candace Erickson pointed out a typographical error in the Resolution under New Business. Hearing no further comments or questions from Council members or the public, the Mayor closed the public hearing.

VI CONSENT AGENDA

Fred Jones, "I move approval of the Consent Agenda items, as presented, 1 through 7". Jim Hier seconded. Motion carried unanimously.

1. Master Festival License for the Freestyle World Championships at Deer Valley and Lower Main Street from January 30, through February 1, 2003 - See staff report, public hearing, and work session discussion.

2. Master Festival License for the Mountain Extreme Triathlon to be held July 11, 2003 - Rock & Road LLC - See staff report, public hearing, and work session comments.

3. Master Festival License for employee appreciation party to be held at City Park on December 12, 2002 - Park City Chamber Bureau - See work session, public hearing, and staff report.

4. Ordinance approving the amended record of survey for a plat amendment to combine all of Lot 18 and part of Lot 16, 17 and 19 of Block 65, Park City Survey into one lot of record at 345 Deer Valley Drive, Park City, Utah - See work session, public hearing, and staff report.

5. Ordinance amending Title 4, Chapter 15 of the Park City Municipal Code, regulating licensing of for-hire vehicles - See work session, public hearing, and staff report.

6. Ordinance amending Title 4, Chapter 2 of the Park City Municipal Code, Business Licensing in General (Business Improvement District)- See work session, public hearing, and staff report.

7. Resolution determining the results of a special bond election held in the City on the question of the issuance by the City of $10,000,000 of general obligation bonds to acquire and forever preserve undeveloped park and recreational land and to make improvements to lands so preserved to protect the natural amenities and provide for public access and use, and related matters - See staff report.

VII OLD BUSINESS

Resolution declaring the intention of the Park City Council to enter into a contract with the Historic Main Street Business Alliance for the administration of the Old Town Business Improvement District for fiscal year 2003-2004 - See staff report and work session comments. As pointed out previously by Council member Erickson, the correction to Item 3 under Section 1 was supported by members. Peg Bodell stated that there was discussion to include a percentage describing what warrants a majority. Mark Christensen referred to Item 2 under Section1. It was pointed out that *majority* means 51% or more. Kay Calvert asked if members could vote by proxy and the City Attorney clarified that it would have to be provided for in the bylaws of the HMBA. With regard to the numbers needed to oppose the formation of the BID, Mayor Williams expressed his concern that approximately 90 business owners are uncommitted and the number of business licenses unique to 2002. Mr. Christensen responded that staff is in the process of identifying Olympic-related businesses and which ones are inactive.

The number needed to defeat the effort is 124 which may drop somewhat. Mr. Hier understood from the discussion last week that the denominator is based on the number of 2002 business licenses issued. Mr. Christensen explained that the Legal Department advised that it is in everyone's best interest to determine active businesses. There was discussion about the City's involvement in controlling the bylaws. The City Attorney advised that the City should avoid micro-managing the organization and suggested an amendment to Paragraph 2 of the Resolution to read, *"Before funds are distributed to the HMBA, the contract will require the development of a budget and marketing plan to be approved by a majority of the members of the District voting at a duly noticed meeting in a manner approved by the City"*. This would ensure there is basic fairness and that standard meeting rules are followed. Peg Bodell expressed her preference that a strategic plan be developed before the budget and marketing plan and appear in the resolution but acknowledged caution in not micro-managing the HMBA.

Although this matter is not a public hearing, the Mayor invited the public to comment. Hearing none, he invited a motion to approve with the changes. Fred Jones, "I move to approve the Resolution declaring the intent of the Park City Council to enter into a public service contract with the Historic Main Street Business Alliance for the administration of the Old Town Business Improvement District as modified". Kay Calvert seconded. Motion unanimously carried.

VIII ADJOURNMENT

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

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MEMORANDUM OF CLOSED SESSION

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

The meeting opened at approximately 3:40 p.m.

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

Prepared by Janet M. Scott

Janet M. Scott

Janet M. Scott, City Recorder

PARK CITY SUMMIT COUNTY UTAH CORPORATE Seal MARCH 1, 1884