

**PARK CITY PLANNING COMMISSION
WORK SESSION NOTES
August 10, 2011**

PRESENT: Charlie Wintzer, Mick Savage, Jack Thomas, Nann Worel, Thomas Eddington, Polly Samuels McLean, Joan Card

Commissioners Pettit, Hontz and Strachan were excused.

WORK SESSION ITEMS

Soils Ordinance– Information Update

Joan Card, Environmental Regulatory Affairs Manager, stated that she has been on contract with Park City since September 2010. Her primary duty is to help the City deal with Environmental Protection Agency issues related to historic mine waste and water quality issues, which dovetail with the City's existing soils ordinance. Ms. Card reported that Jim Blankenaw was the new Environmental Regulatory Program Manager who would be managing the soils ordinance.

Ms. Card briefly introduced herself personally and professionally. She has had a lot of experience in the environmental regulation arena. Working for Park City, she is an environmental regulator with respect to soils.

Ms. Card stated that the Soils Ordinance generally requires property owners within the Soils Ordinance boundary to obtain and maintain a certificate of compliance. The certificate means that the lead level in the top 6" of soils is less than 200 milligrams per kilograms lead. Ms. Card presented a slide showing the current boundary lines in red. The yellow area was Prospector. The boundary started at the Y where Kearns and Park Avenue meet, all the way up Park Avenue and back down Marsac. It also included Masonic Hill, as well as new additions at Silver Star, the Treasure area, the middle reach of Silver Creek downstream where the water treatment plan is being built, and the high school area.

Ms. Card noted that an interactive version of the map was available on the website. The Staff report contained the URL. On the website map you can put in an address to see if it is compliant with the soils ordinance and whether or not it is within the Soils Ordinance boundary. She noted that you could click on the annual reports to learn what occurred in that year with respect to the Soils Ordinance. That report is issued to the public and directly to the Utah Department of Environmental Quality and the EPA.

Ms. Card stated that if a property is within the red boundary, it should have a hard file certificate of compliance. Those certificates are pulled on a daily basis, primarily for real estate transactions. That information is available at the City. Ms. Card remarked that it is necessary to test the top soil in order to obtain and maintain a certificate of compliance. Many of the black lots shown on the map have not had their soil tested. It is impossible to know whether they are out of compliance with the 200 parts per million standard, but they are out of compliance with the Ordinance because they have not tested their soil and received the certificate.

Chair Wintzer asked about the yellow squares in the middle of Prospector. Ms. Card stated that early in the 1980s an improvement district was developed; however, it is a legacy that is no longer

implemented with respect to the soil ordinance. The Environmental Coordinator who prepared the map elected to highlight it to show that it was an improvement district. It had a 1,000 parts per million standard that applied historically. It does not apply anymore. Mr. Card believed all the yellow lots were vacant.

Commissioner Worel asked if there was a timeline in terms of when a home was built and whether it would be more likely to have a certificate of compliance. Ms. Card noted that the ordinance dates back to 1988. The modern version of the ordinance was in 2003. Depending on the time of construction a different standard may have been in place. Mr. Card remarked that the 2003 Ordinance required all lots to be in compliance by 2006. That was the reason why some of the lots shown were out of compliance for 2011.

Ms. Card stated that the City will do the sampling and analysis. Some people with bigger jobs elect to hire an outside source. If the lead levels are found to be greater than 200 parts per million lead, they must add 6" of cover, which is 6" of soil and generally turf. They could also do xeriscaping, which is a recent addition to the ordinance. Paved areas are excluded so concrete driveways or asphalt lots are considered capped and compliant.

Ms. Card noted that disturbing the soil requires maintaining compliance with the 200 parts per million standard. In that case, a person may be required to re-test.

Ms. Card stated that maintenance of the topsoil cap is key to compliance. Vehicles can only be parked on paved surfaces. There is a requirement in the Ordinance to control dust, which generally means to re-vegetate and sometimes water the soils. There are specific requirements for planting trees and bushes if they are not in planters. Those requirements were detailed in the Staff report.

Ms. Card stated that they tell builders and property owners not to disturb or excavate soil without referring to the Ordinance. They are encouraged to come to the City to seek approval and guidance on their project. Depending on the project, some people are asked to consult with the Planning and Engineering Departments. In all cases involving excavation, people are asked to consult with the Building Department to obtain a permit, and to have a plan to deal with soils that is acceptable under the ordinance.

Ms. Card stated that in May 2010 the EPA determined that soils could not be taken from the Park City soils ordinance boundary to the Richardson Flat Soil Repository. As of that date there are limited local options to deal with lead contaminated soils. People are strongly encouraged to reincorporate excavated soil on the site. Berms were built this summer as a small repository for soils over 200 parts per million that are capped with the 6" of soil and turf. If soil cannot be incorporated on site, you have to find a State or Federally approved facility. The only approved facilities in Summit County are the Richardson Flat Repository, which cannot be used at this time, or the Three Mile Landfill at Summit County. On a case by case basis Summit County may take the soils if it meets certain testing requirements. Summit County has been willing to work with people this summer.

Ms. Card stated that the key part of the soils ordinance that people are surprised to learn is that the Soils Ordinance is approved by EPA and DEQ. Those departments prohibit taking soil out of Park City to be used as fill somewhere else. Lead at certain levels can be deemed a hazardous waste and they do not want to import hazardous waste to unknown areas or facilities within the County or

the State.

Ms. Card noted that United Park City Mines Company may possibly take soil if it is under 500 parts per million lead. That is completely discretionary based on their operations and abilities at the time. Soils have also been taken to a disposal facility in Toole County called Grassy Mountain. There is another facility in Southern Idaho. Tooele and Idaho are very expensive options that require long hauls and significant tipping fees. Because of the limited disposal options, the City is engaged in conversations with EPA and the Mine Company to try to develop a new local option similar to Richardson Flats.

Ms. Card explained the reason for the Soils Ordinance. Park City is a mining town and according to the Park City History Museum 1869 was the date of the first mine claim, which was the Flagstaff Mine Claim. Around 1949-1950, large scale mining in Park City stopped. It restarted in small starts after that, but the large scale mining occurred over a period of 80 years. Ms. Card noted that 80 years of mining and milling in town results in a lot of waste. She presented slides showing the Ontario Mine and Mill and explained the mining process. Whatever was remnant in the crushing operation became a tailing and the tailings were wasted down the streams. Ms. Card reviewed slides of other mines that resulted in massive tailings ponds. When the Prospector tailings pond reached its capacity, everything was shipped out to Richardson Flat, which became the next large tailings pond for the mines.

Ms. Card reported that in 1980 Congress enacted the Super Fund Law, also known as CERCLA. Very early after that enactment, the EPA was interested in the Prospector tailings pond, which they called the Silver Creek tailings. They were interested because it was classified as hazardous waste and people were building homes and schools on it. It was a concern to the EPA in the early to mid-1980s. Park City was concerned about it being a priority and was successful in getting legislation passed through Congress that said EPA could not list it as a priority site. Despite that legislation, EPA had concerns and in 1988 they issued a set of recommendations for Park City to consider. Those recommendations eventually became an ordinance. In 1988 the EPA recommended the 6" of soil cover to limit the exposure between the people building homes and the lead contaminated tailings. In 2003 amendments were drafted that created the current Soils Ordinance.

Ms. Card stated that the EPA has agreed to let Park City handle this issue in town as long as they meet certain requirements that the EPA and the State think are important. Those requirements are included in the Soils Ordinance. As long as Park City continues to do a good job implementing the Soils Ordinance, the EPA and the State will not try to take action within those boundaries.

Ms. Card pointed out that the cover material protects people from inhalation and ingestion of lead and the severe health problems that are caused by lead in the human body. She stated that programs are in place to report and document lead poisoning in Park City. To date, nothing has been documented. At this point there is no apparent threat, but the City is trying to address the concern through the Soils Ordinance so it does not become a threat to human health.

Ms. Card noted that the City standard of 200 parts per million exceeds the EPA standard of 400 parts per million. Ms. Card provided her contact information and encouraged the Commissioners to contact her if they had questions.

Chair Wintzer asked what was being done to find another depository to replace Richardson Flat. He was concerned that all construction could be stopped if there was not a place to deposit contaminated soils. Ms. Card stated that finding another location was her primary duty, and she has been working with the EPA on a daily basis to resolve the issue. The matter is extremely complex because it would be handled under the Super Fund Law. They are working through difficult issues and she hoped they were close to finding a solution.

Commissioner Savage wanted to know why dumping was no longer allowed at Richardson Flat. Ms. Card explained that the Richardson Flat repository is a repository for Super Fund waste. Soils Ordinance waste is technically not Super Fund waste. The EPA has a major Super Fund cleanup plan for lower Silver Creek and they needed a place to put the soils. The EPA chose Richardson Flat.

The Work Session was adjourned.