

EXHIBIT F



PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JUNE 21, 2001

I ROLL CALL

Mayor Pro Tem Roger Harlan called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, June 21, 2001. Members in attendance were Peg Bodell, Candace Erickson, Roger Harlan, Fred Jones, and Jeff Mann. Mayor Brad Olch was excused. Staff present were Toby Ross, City Manager; Pat Putt, Planning and Zoning Administrator, Eric DeHaan, City Engineer; Ray Milliner, Planner; Meg Ryan, Special Events Coordinator; and Mark Christensen, Budget and Grants Manager.

II PUBLIC INPUT

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

1. Education Foundation - Official Cookbook of Park City - Kim Carson, Executive Director, explained that the Foundation is committed to providing the School District with additional funding for valuable educational programs. *A Taste of Park City* was underwritten by a generous donor and 100% of the proceeds are allocated directly to the Foundation's goals. She requested Council to declare the cookbook the "Official Cookbook of Park City" as it is felt that the third party recognition by Park City adds to the value and distinction of the cookbook. The Council supported the endorsement and the City Manager suggested that a letter of endorsement be sent by the Mayor.

2. Olympics - Budweiser beer tent - Michael Kaplan, Mother Urban's Ratskeller, stated that he, Lakota, Renee's and Mulligans feel it appropriate to include local businesses in negotiations when the City enters into contracts with outside vendors as there may be a negative impact on their businesses. There should be competitive prices set at the Budweiser Olympic tent, so that their businesses are not under-sold and the City should restrict hours of operation. The Mayor Pro Tem encouraged Mr. Kaplan to read the articles in the *Park Record* written by the Olympic Planning Director as a means to stay informed and Mr. Kaplan pointed out that information is often not available until after negotiations take place.

3. Beer in City Park - Ed Brophy, resident, addressed the issue of prohibiting beer in City Park unless the event has acquired a conditional use permit. He pointed out that the Recreation Department and softball teams are being proactive and diligent about keeping things under control. He added that not everyone who violates the rules are ball players, who would like to be involved in discussions on this issue.

4. Paid parking plan during the Winter Games - Monty Coates, Main Street Business Alliance, stated for the record that during the Winter Games, there is a proposal for paid parking in

the downtown corridor, and the Alliance is interested in being involved in the negotiations or compromises on this issue.

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

III COMMUNICATIONS FROM COUNCIL AND STAFF

None.

IV WORK SESSION NOTES AND MINUTES OF MEETING OF MAY 17, 2001

Hearing no corrections or omissions, Peg Bodell, "I move approval". Jeff Mann seconded. Motion unanimously carried.

V CONSENT AGENDA PUBLIC HEARING

1. An Ordinance Approving the Amendment to the Park City Survey, Known as the Block 52 Replat, Located in Block 52 of the Park City Survey, Park City, Utah (128 Ontario Avenue) - and

2. An Ordinance Approving the Vacation of a Portion of the Platted Marsac Avenue Right-of-Way Between Platted First and Second Streets Adjacent to Lots 6 and 7, Block 52, Park City Survey, Park City, Utah (128 Ontario Avenue)- Pat Putt referred to his explanation during work session and through illustration of a map, described the location of the property. The application includes a request for a plat amendment and a vacation of a small portion of platted but unbuilt Ontario Avenue. It is proposed to combine 15 full or partial HRL zoned lots to create three new single family lots of record covering about half acre and the access to the lots would be by way of a private driveway easement through the existing Ivers Replat. In the HRL zone, only single family homes can be developed, requiring the equivalent of two Old Town lots or an area equaling 3,750 square feet. All three lots exceed the minimum requirements and meet access requirements. The vacation involves 488 square feet and meets criteria set by Council, including that the vacation does not result in an increase in density, the project is compatible with the existing neighborhood and there is due compensation for the vacation. Specific development review is a separate process and the applicant has agreed to compensate the City by dedicating an area of 488 square feet adjacent to the Virginia Claim. The area of the vacation will allow for a driveway design that results in the building pad of Lot 3 being lowered on the hillside. The Planning Commission has rendered a positive recommendation on the plat amendment and has approved a conditional use permit to extend a private driveway across platted Second Street. He stated that it is recommended that Council approve the plat amendment and the vacation, based on the findings of fact, conclusion of law, and conditions of approval outlined in the staff report.

Hearing no comments from the audience or the City Council, the Mayor Pro Tem closed both public hearings.

3. Ordinance accepting the limited dedication of a public street to provide shared access to Black Diamond Lodge and Deer Crest in Park City, Utah - Eric DeHaan described the location of the Black Diamond parcel currently under construction east of the day lodge and adjacent to the proposed Rosewood Hotel. The Hotel has gone through an MPD process with the Planning Commission where shared access has been recommended to minimize driveway cuts on Deer Valley Drive. The issue before Council is a dedication of a public access across a portion of a neighboring property, the Powder Run Condominiums, which was developed in the early 1980s on another Deer Valley Resort property. At that time, the access for future Deer Valley properties was unknown. By accepting this Ordinance dedicating this right-of-way, the City is not taking on any maintenance liability and would regard this as a private driveway within a publicly dedicated access to facilitate the access to adjacent properties as presented to the Planning Commission. The Powder Run Condominium property owners have requested involvement in the design of the driveway, which is substantial and involves major retaining walls. There could be a condition of approval indicating that the City has negotiated in good faith with Powder Run on the construction of the driveway, recognizing the easement created prior to the original platting of Powder Run. The driveway will free up the loading docks and parking for day care at the Snow Park day lodge and it is desirable from the City's standpoint as it eliminates the need to relocate utilities for the lodge. Roger Harlan referred to a letter from Brent Anderson, representing Powder Run, asking that action be delayed.

Bob Wells, representing Deer Valley Resort, felt that it is understandable that Mr. Anderson would like an opportunity for his attorney to review the proposal but pointed out that this has been in process for well over a year for Black Diamond and the Rosewood Hotel. These projects have been noticed and there has been no public input. The requested 30 foot wide dedication is within a 78 foot wide easement which was created three years before the property for Powder Run was sold and was created within five different instruments. He explained in detail the efforts to straighten out property issues and the plat for Powder Run reflects the 78 foot wide access easement. He urged Council to approve the request as presented or approve it with a condition addressing resolving Powder Run's concerns with the approval of the City Attorney.

Hearing no comments or questions from the public or the City Council, the public hearing was closed.

4. Ordinance approving a plat amendment to combine the northerly half of Lot 20 and all of Lot 21 of Block 5 of the Park City Survey into one platted lot (581 Park Avenue) - Ray Milliner, Planner, explained that the application complies with the Land Management Code and the Planning Commission has forwarded a positive recommendation based on the findings of fact, conclusions of law, and conditions of approval as outlined in the staff report.

Hearing no comments or questions from the public or the City Council, the Mayor Pro Tem closed the public hearing.

5. Ordinance approving a plat amendment to add a metes and bounds parcel to 3198 American Saddler Drive (Lot 4) and add a metes and bounds parcel to 3204 American Saddler Drive (Lot 3) and amend the Risner Ridge Subdivision, Park City, Utah - Brooks Robinson pointed out that the zone change request is not on the agenda, but since it is part of the application, he urged Council to entertain public comment on this matter. In 1981, the Park Meadows Country Club was developed and there was a Declaration of Restrictive Covenants between the developer and the City restricting land uses to the construction, maintenance and operation of a golf course, golf club house and related improvements. Owners of the country club sold off parcels to adjacent property owners in subdivisions adjacent to the course. These parcels were not maintained as part of the fairways and property owners were interested in acquiring them as landscaped areas. The Shapards proceeded to improve their property with a concrete slab basketball court, requiring grading and rock retaining walls. The parcels were quit claimed and did not go through a subdivision process. Basketball courts are permitted in the ROS zoning district, however, they must be at least 25 feet from the boundary zoning district. The court could be reconfigured, however, it is still subject to the covenants of the declaration between the country club and the City.

Mr. Robinson stated that the Planning Commission heard from several neighbors in opposition and in favor of the application. The Commission was unanimous in its direction to staff and the applicant that it could not support a zone change and rendered a negative recommendation to Council on the zone change. However, the plat amendment incorporating the metes and bounds lots into the two lots and amending the Risner Ridge Subdivision was approved.

Mayor Pro Tem Harlan invited testimony on both topics and advised that on the July 12 meeting, the Council will formally act on the zone change.

Terry Shapard, applicant, respectfully requested a continuance to July 12 as she never received a legal notice of the hearing and her husband is out of town. Her next door neighbor never received notice and he is also out of town.

Sara Henry, legal counsel of the Plubells who are protesting the zone change, stated that they have no problem with the plat amendment with the condition that the basketball court be removed. With regard to the continuance, she pointed out that there are a number of people in attendance tonight and she has been aware of the hearing date for a number of weeks and this issue has been dragging on for months. They are opposed to the zone change for a number of reasons, primarily because of the belief that these parcels must be maintained as landscaping. Her clients' property is located behind the basketball court, which interferes with their view. There is a noise factor involved and they have been misled that the improvements would be solely landscaping. Ms. Henry referred to a protest filed with the Planning Commission and requested a decision on the plat amendment tonight.

Elizabeth Swank, resident, stated that she opposes changing the zoning on the small parcel which could set a precedent and allow others to ignore the rules as well and retroactively apply an illegal use.

Bill Brauer, 3184 American Saddler Drive, stated his opposition to the zone change and added that Mr. Shapard represented the project as landscaping and a month later, indicated that they were installing a sport court. He stated that Mr. Shapard indicated to him that no permit was required. When he discovered that the property is zoned as open space as other similar properties around the golf course, he felt compelled to express his opposition to this zoning application.

James Paek, resident of Aspen Springs, felt that the people in support have not been properly noticed. There is limited space for children to play in the area and the basketball court should be personally visited by the Council as it is unobtrusive. A compromise needs to be reached. Brooks Robinson clarified that legal notice is posted and published and the mailed courtesy notice is not considered legal notice. The Shapards were aware of the hearing for at least a month and he stated that he personally called them as well as Ms. Henry and her clients.

Mike Kutcher, representing Park Meadows Country Club, stated that their concern is that the sale of the parcels of land were originally contemplated as a buffer between the golf course and the subdivision properties. Home owners were willing to purchase the parcels as an extension of their yards and there was never any intent to allow construction of structures like a sport court. The property is close to a golf hole and there are some inherent dangers of errant golf balls flying into the area, creating a safety problem as well.

Ken Plubell, property owner and client of Ms. Henry, pointed out that the Racquet Club is a tremendous facility for kids and most of the people in the neighborhood who have basketball hoops have the portable type. There is a liability issue of users falling off the court. He bought the property five years ago and one of the reasons for purchasing the property was the view. This has been going on for a long period of time and it is disturbing to hear comments suggesting that they oppose recreation for children. He felt that this has the potential of devaluing his property.

Terry Shapard stated that when the court was constructed, there was no malice on their part and she understood that the parcel could be incorporated into their lot. It was never their intention to deceive anyone and the idea of the basketball court seemed like a good one and it could be landscaped to shield it. She didn't feel that the removal of the court should be a condition of the plat amendment as it is not related and is a separate issue. There was discussion about the condition of removing the court as part of the plat amendment and the ability to continue both items.

Sara Henry emphasized that they are in agreement with the conditions of the plat amendment, specifically the removal of the basketball court, which is their primary concern. The Shapards took the action and are now trying to retroactively correct it and they believe that the

zoning should not be changed. Brook Robinson reminded the Council that the covenants still run with the land unless the entire MPD is revised for the country club.

Bill Boyd, friend of the Shapards, stated that his son plays on the court and stated that it is unobtrusive because the coloring blends in with the scenery. It is not very noticeable and it is not a problem for most people.

Ken Plubell interjected that everyone who lives adjacent to this court is opposed to it. For the benefit of Mr. Pack, it was explained that action on the plat could be approving it as presented or modifying the conditions. He then asked what constitutes a sports court, and Mr. Robinson explained that the concrete is considered a structure in the LMC as it provides an impervious surface on the ground.

Candace Erickson understood that even if the zone is changed, it doesn't meet lot line requirements and would be a non-conforming use. Brooks Robinson explained that the court could be adjusted by a few feet to conform with the setbacks but there are covenant issues running with the land. Jeff Mann stated that he visited the site and strongly disagrees with the comment that it blends with the surrounding environment.

Fred Jones felt it prudent to continue both items as the real issue is whether to rezone and action can not be taken this evening. He continued that there is a building process for a very important reason which is demonstrated by this situation. The process protects both home owners and neighbors and all of these issues could have come to the forefront prior to the construction of the court. It is not a matter of whether the sport court is good or bad or whether it blends in, it is a question of being outside of the regulations that govern the property. These are very clear and there is no grey area here and the problem results from the fact that someone ignored a very standard process in most any city that has zoning. The building permit process is not designed to collect fees but to protect people. Mr. Jones again urged continuance of both items. Peg Bodell stated that she has no problem continuing these items, but felt it important to share her views with those who testified this evening. She believes that there was no ill intent but there is a process that was not adhered to and there were plenty of opportunities.

6. Solaramaganza Master Festival License and petition to close a portion of lower Main Street from Heber Avenue to just south of the entrance to the Marriot Summit Watch parking garage and 7th Street from 6 a.m. to 10 p.m. on July 14, 2001 - Applicant The Living Planet Aquarium - Meg Ryan pointed out that this was discussed at Council's June 7th meeting and staff is requesting approval subject to the conditions outlined in the staff report. The Mayor invited comments or questions from the Council and audience. Monty Coates, Main Street Business Alliance, stated that members support this event. Hearing no further comments, the Mayor Pro Tem closed the public hearing.

7. Amendment to Ordinance amending Title 4, Chapter 8A of the Municipal Code of Park City, Utah regulating public outdoor music plazas - Ms. Ryan explained that this provision was amended by Council in May, but there was a clerical error omitting Friday which should have been included. Hearing no comments, the Mayor closed the public hearing.

8. Ordinance amending the Land Management Code - Phase 2 Rewrite including Chapters 6, 8, 10, 11, and 14 (motion to continue to July 12, 2001) - and

9. Ordinance amending the Land Management Code - Phase 2, Chapter 4, Historic District Commission and Preservation of Historic Buildings and Sites (motion to continue to July 12, 2001) - Fred Jones, "I move to continue Items 8 and 9 to July 12". Candace Erickson seconded. Motion unanimously carried.

VI CONSENT AGENDA

The City Manager recommended that the Consent Agenda be approved, absent Item 4, which should be continued to July 12. Fred Jones, "I so move". Jeff Mann seconded. Fred Jones interjected that with regard to Item 2, he believes that the vacation is a good solution, which doesn't necessarily set a precedence as this is a unique situation with regard to open space and site issues. It should not be considered as a standard for future applications. Motion unanimously carried.

1. An Ordinance Approving the Amendment to the Park City Survey, Known as the Block 52 Replat, Located in Block 52 of the Park City Survey, Park City, Utah (128 Ontario Avenue) - See staff report, work session notes, public hearing and motion.

2. An Ordinance Approving the Vacation of a Portion of the Platted Marsac Avenue Right-of-Way Between Platted First and Second Streets Adjacent to Lots 6 and 7, Block 52, Park City Survey, Park City, Utah (128 Ontario Avenue) - See staff report, work session notes, public hearing and motion.

3. Ordinance approving a plat amendment to combine the northerly half of Lot 20 and all of Lot 21 of Block 5 of the Park City Survey into one platted lot (581 Park Avenue) - See staff report, work session notes and public hearing.

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and 7th Street from 6 a.m. to 10 p.m. on July 14, 2001 - Applicant The Living Planet Aquarium - See staff report and public hearing.

6. Amendment to Ordinance amending Title 4, Chapter 8A of the Municipal Code of Park City, Utah regulating public outdoor music plazas - See staff report and public hearing.

7. Ordinance accepting the limited dedication of a public street to provide shared access to Black Diamond Lodge and Deer Crest in Park City, Utah - See staff report and public hearing.

8. Authorization to execute cumulative change orders in the amount of \$20,000 to Holmes and Narver for the Skate Park engineering and design - See staff report.

VII PUBLIC HEARINGS

1. Resolution adopting a final revised budget for FY 2000-01, a final budget for FY 2001-02 for Park City Municipal Corporation and its related agencies - Mark Christensen stated that action tonight represents the cumulation of months of work of review. Fred Jones referred to Mr. Coates' comment on imposing parking fees during the Winter Games and parking revenues are included in the Olympic budget. The City Manager explained that it also appears as an expenditure and discussion on this issue is still on-going. The Mayor Pro Tem solicited input from the audience. Hearing none, the public hearing was closed.

2. Ordinance establishing compensation for the Mayor and City Council for Fiscal Year 2001-2002 in Park City, Utah - Hearing no comments or questions, the Mayor Pro Tem closed the public hearing.

3. Resolution amending Section 2, Water Fees, of Resolution No. 07-01, and replacing Resolution No. 07-01 in its entirety - The Mayor invited public input and hearing none, closed the public hearing.

VIII NEW BUSINESS

1. Resolution adopting a final revised budget for FY 2000-01, a final budget for FY 2001-02 for Park City Municipal Corporation and its related agencies - See staff report, work session notes and public hearing. The Mayor Pro Tem requested a motion to approve. Peg Bodell, "I so move". Fred Jones seconded and emphasized that this is a no tax increase budget. Motion carried unanimously.

2. Ordinance establishing compensation for the Mayor and City Council for Fiscal Year 2001-2002 in Park City, Utah - Peg Bodell, "I move that we approve the Ordinance". Jeff Mann seconded. Motion carried unanimously

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3. Resolution amending Section 2, Water Fees, of Resolution No. 07-01, and replacing Resolution No. 07-01 in its entirety - Peg Bodell, "I move that we approve Item 3". Jeff Mann seconded. Motion unanimously carried.

IX ADJOURNMENT

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

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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, City Recorder