

EXHIBIT H

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
NOVEMBER 6, 2008**

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Library and Education Center on Thursday, November 6, 2008. Members in attendance were Dana Williams, Candace Erickson, Roger Harlan, Jim Hier, Joe Kernan, and Liza Simpson. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Matt Cassel, City Engineer; Kirsten Whetstone, Planner; Max Paap, Special Events Manager; Pace Erickson, Operations Manager; Mattt Cassel, City Engineer; Diane Foster, Environmental Affairs Manager; and Brooks Robinson, Planner.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Disclosure - Joe Kernan disclosed that PCMR, Powdr Corp, Royal Street, USSA, Talisker and Summit County are among his recycling customers.

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

The Mayor invited public input.

1. Public apology request and process for purchase of National Garage (aka Watts) property – Peter Roberts, Glory Hole Hot Glass Studio, stated that since his move to Park City in 2000, he has been trying to establish a hot glass studio. In 2003, the City decided to sell the Watts property and issued a request for proposals which were evaluated by a City formed committee. His proposal met the criteria as stated in the RFP, he was selected, and over 80 people attended Council meetings in support of his proposal. Mr. Roberts stated that Tom Bakaly then told him that he would not support his project before the findings of the committee were released to the public. He asked Mr. Bakaly several times why he would not support the hot glass studio and he was never given a reason, and as a result, he could never address his concerns.

Mr. Roberts stated that he raised the money to purchase and rehabilitate the property but the conditions of the sale kept changing and the money was never accepted by the City. As a result, the process became very lengthy and the RFP closed within ten days and during this process, he raised the necessary funds yet again and personally informed Council. The City preferred to sell all three associated parcels together and he was the only one willing to do this, intending to sell the Woodside Avenue house to the Bertinelli's who were long-term tenants. His bid amount was the exact same amount as Perkins who was selected to purchase the Watts house and National Garage. After the award to David Perkins, he attended a Council meeting to thank members for their time because he wants to work with the City in a positive and constructive way.

He alleged that employee Alison Butz made comments which appeared in the newspaper along with Myles Rademan on the radio that Perkins' project was selected because he was the only one with the money. This is simply not true. The City contacted his loan officers who were shocked that he was not selected to purchase the property. There was a lot of press coverage and local attention paid to this story and as a result no one thought he had any money. He heard this many times from a variety of sources which really damaged his reputation and continues to be *a thorn in his side*. He provided over \$130,000 with his own cash and over \$120,000 in solid assets that he was willing to sell. In addition, his main investor had several million dollars earmarked for this project. He reiterated that his reputation has been seriously damaged by the City's actions, and asked the Council to issue a statement that he had the money. He is asking that the City acknowledge the truth. He doesn't want anything more and respects the current deal for the property. Mr. Roberts stated that he simply wants his reputation *fixed* and is giving the City a week to consider his request. He urged members to do the right thing and acknowledge the truth of the matter. If there are any questions, he urged members to contact him. He thanked Council for its time.

2. Echo Spur Project - Susan Graves Peterman, resident, relayed her surprise that this project has begun behind residences on Ontario Avenue and home owners did not receive notice. She was contacted on October 16 by the property owner that she needed to move her shed which is supposedly on his property. Several residents are confused how this development was approved. Over a year ago, the neighborhood met with City staff to review plans. They were informed of a prescriptive easement on the road behind their homes which has been used for over 60 years. This road has provided parking and access for residents. She asked why notification was not provided to the neighborhood and asked for more information on the prescriptive easement. The developer indicated to her that there would be 14 homes built and they would like to know the square footage numbers. Over a year ago, they were told that there would be a maximum of three to five houses. Grading has begun and they are looking for some answers.

Brooks Jacobson, Ontario Avenue resident, believes that the Echo Spur property is very visible from the other side of the canyon. It is important to Old Town and as many resources should be dedicated to the site as possible to obtain the best possible development scenario there. He is unclear how this project received a grading permit and why he did not receive notification. Mr. Jacobson acknowledged that he knew about the proposed development but understood it was off the table until he observed the grading activity. Parking and snow removal issues are huge problems in the area. He asked Council to urge the Planning Commission to work toward a quality project.

Gary Wolfhart, Ontario Avenue, supported his neighbors' comments and pointed out that the big issue is the prescriptive easement.

This comment was made after Mr. Schueler's following comments but appear here for ease of reference. Jim Hier understood that originally the developer proposed to modify the street and reduce the number of lots. There was significant public input at the Planning Commission meeting requesting that the plan not be approved because of a number of other issues. The developer then withdrew that concept and decided to build according to the way the property is platted. Mr. Hier emphasized that there is not much flexibility with platted property and the owner has the right to develop his property as platted. As such, noticing an allowed uses is not provided, however, he is aware that the planning staff has tried to work with the developer to change the plan which he understands has not been very successful.

With regard to the prescriptive easement, Mark Harrington explained that since the reconfiguration is no longer in play, it is not a City issue but a private matter between the neighbors and the owner. No building permits have been issued, just the grading permit for the road and there is still a lot of process remaining for the single family homes. Many are situated on steep slopes and the conditional use process provides additional opportunities for input. The square footages are not determined until this process takes place.

Matt Cassel added that the developer is cutting the road to grade and prepare it for spring construction if they are approved. The road will be constructed to City standards so that it can be dedicated to the City.

Jim Hier reiterated that residents will be noticed when the steep slope CUP is scheduled before the Planning Commission. Mark Harrington interjected that the planning staff continues to maintain a dialog with the neighborhood to arrive at a better plan. Mr. Harrington invited the neighbors to meet with him if they have questions.

3. Complaint about Hillside Avenue construction and treatment by the City – Alan Schueler, Prospect Avenue resident, complained about the total anarchy that his neighborhood and his house have become. The Hillside Avenue construction is out of hand and his yard is used for loading and unloading. The police made him move his car off private property so that his land could be used for the project. He was chased off his land by Officer Fierro in the midst of eight illegally parked cars. He was the only one legally parked in front of his neighbor's house and he was told that he would be ticketed, impounded and towed because the contractor didn't like him parking there. The workers have taken over the neighborhood; they enter his yard and garage and use his water hose. They lunch on his rock wall; set up a burrito stand, sit on the neighborhoods' automobiles; they are in yards, on property, on lawn furniture, and throw their garbage everywhere. The street dumpster is used by all the contractors in the area and he sees 5,000 people a day pee right outside his front door. The garbage is

everywhere, there is no parking, and he can't get to his house. Mr. Schueler stated that both of his cars have been vandalized and one is not drivable because of the damage. He has been physically assaulted on public property and in the public parking lot across the street from his house. Park City Police allowed the same man to come back. Mr. Schueler indicated that he left for a week to get away from there and today a week later, the man is leaning up against the same car that he vandalized before and intending to do it again.

Mr. Schueler stated that he calls the police every day who do nothing every day. They make all kinds of excuses and one of the officers got into a verbal fight with his wife yesterday about what people are allowed to do in our neighborhood.

The Building Department has been horrendous to work with; staff has lied to them, cheated, have been incompetent and now they are being vengeful and spiteful. He saw a man on his property with his pants unzipped and thought it was someone peeing in his garage, but it turned out to be a building inspector who intended to shut him down for illegally building a bathroom in his home, which was not the case, he was installing tile in his laundry room. He was shut down by the Building Department when he was trying to replace his deck which was destroyed by a roll-over dump truck. His shed and fence have been vandalized so many times now that it is falling down and when he tried to replace them, the Building Department issued him a stop work order insisting that he has to work with the City. There is no chance he will do that.

Mr. Schueler stated that he has checked with everyone outside of the City for help because nothing ever happens when dealing with the City. The Summit County Sheriff has expressed a keen interest in this matter and the neighborhood now calls the County instead of the Park City Police Force, so that some of this mess can be cleaned up which has been created and forced on them on a daily basis. Mr. Schueler left the meeting room.

Jim Hier suggested that Mr. Schueler's issues be outlined with a corresponding position from the City since he has approached Council a number of times and unfortunately doesn't stick around long enough for a response. The City Manager explained that the City has a summary of events available. Captain Rick Ryan stated that the police have been meeting with Mr. Schueler and another meeting is scheduled on Tuesday with him, Sergeant Little and Officer Howard. Mr. Hier expressed an interest in receiving a written report.

IV NEW BUSINESS *(New items with presentations and/or anticipated detailed discussions)*

1. Consideration of an Ordinance approving a plat amendment known as 308 Ontario Avenue Subdivision combining Lots 1, 2 and most of Lot 3, of Block 57 of the Park City Survey into one lot of record, Park City, Utah – Planner Kirsten Whetstone explained the request to combine three Old Town lots into one 5,387 square foot lot of record for a historic house at 308 Ontario Avenue. The property is located in the HRL Zone. The existing house straddles lot lines and the owner is intending to build an addition. On October 22, 2008 the Planning Commission conducted a public hearing where there was no public input and a positive recommendation was forwarded to the Council. In response to a question from Roger Harlan, Ms. Whetstone explained possible elements in a construction mitigation plan which is finalized at the time of the building permit. A steep slope CUP and design review are pending. The Mayor opened the public hearing and with no comments from the audience, closed the public hearing.

Jim Hier, "I move we approve the subdivision plat for 308 Ontario Avenue according to the findings of fact, conclusions of law, and conditions of approval outlined in the Ordinance". Joe Kernan seconded. Motion unanimously carried.

2. Consideration of a Master Festival License including a partial street closure of Main Street from Heber Avenue to 9th Street and amplified music for the World Cup to be held on January 29, 2009 – Max Paap explained the partnership approach to host this event between Park City Mountain Resort, USSA, and Deer Valley Resort. PCMR and Deer Valley submitted an application requesting a MFL to hold the FIS Freestyle World Championship test event in Park City. Activities will be held at PCMC and Deer Valley and an opening night concert is planned for lower Main Street on January 29, 2009. The closure proposed would be similar to the PSSM street closure. The HMBA Executive Board has been notified of the partial closure and had no negative comments. Mr. Paap stated that the application is being reviewed as a MFL due to the request for amplified music, attraction of large crowds, partial street closure, use of an off-street parking facility, and use of City property. The amplified music is restricted to the hours of 7 p.m. and 9 p.m. The Mayor opened the public hearing; there were no comments. Liza Simpson, "I move we approve the Master Festival License for the 2009 FIS Freestyle World Cup as conditioned in the staff report". Jim Hier seconded. Motion unanimously carried.

3. Consideration of an Ordinance amending Section 14-4-9, Sidewalks to be Cleared, Section 4-2-18(G), Transportation Service, and Section 14-4-10, Fire Hydrants to be Uncovered, in the Municipal Code of Park City, Utah – Pace Erickson stated that on September 11, 2008, staff presented options to Council for amendments to the snow removal provisions in the Municipal Code and the amendments presented tonight reflect Council direction. The revised sidewalk snow removal section provides for a three tiered plowing priority, develops a strategy to implement a regulatory process for private snow plow operators, heightens enforcement of the current ordinance, and increases

public awareness to remove snow from fire hydrants. Liza Simpson asked if there is a way to get the Fire District to agree to clear their hydrants. Pace Erickson explained that the typical practice of cities is to have the home owner maintain the fire hydrant and make sure it is clear. Joe Kernan asked if there are any communities where the fire department provides this service and Pace Erickson relayed that he is not aware of any. Ms. Simpson asked that Fire District participation be discussed during the upcoming visioning session.

Mayor Williams didn't perceive a problem with the current ordinance and was unsure if the City could impose a service on a separate taxing district. Mark Harrington didn't think Council could, but would explore this further if desired. He suggested that the topic be addressed through a cooperative inter-local government forum, pointing out that the Fire District's primary function is response.

Jim Hier asked for further clarification for the need for a sticker program. Pace Erickson explained that now there is no way to identify who is licensed in the City. Through this process if an operator does not comply with the ordinance and there is a complaint and a citation, they will go through the City's administrative hearing program or ACE. Violations are becoming a growing problem. Discussion ensued on administering the sticker program. The Mayor opened the public hearing.

Ruth Gezelius, resident, felt that in years of extremely high snowfall when the City snowplows bury the fire hydrants, and in consideration of the number of tenants and guests who won't shovel, it really becomes a fire safety issue that the hydrants be marked and checked periodically. The Fire District does an excellent job of installing flags but once they are knocked down by the snowplows, they are no longer visible. There should be a plan in place.

Alex Butwinski, resident, felt this is a good amendment to the Ordinance and commended Pace Erickson on an excellent staff report where WALC's recommendations are incorporated.

Brian Hardman, High Peak Snow Removal, asked about the sticker requirement for rental equipment which may be rented for a day or two. Also, the City office may be closed when additional stickers are needed.

Pace Erickson suggested working with the Building Department Code Enforcement staff to create a flexible program for temporary tags. Liza Simpson felt it could be handled at the other end so that if a licensed operator is cited for untagged rental equipment, the ticket could be waived. There was discussion about monitoring the program and that violations are largely reported by residents. Pace Erickson expressed that the Building

Department is committed to heightened enforcement and the Police Department will pay more attention to private operators.

Mark Dean, operator, discussed the challenges with contracting for people and equipment last winter and expressed concern about requiring every vehicle to have a sticker.

Pace Erickson explained that it is the contractor's responsibility to make sure his subcontractors abide by the same rules and regulations as the contractors. Mr. Dean argued that this adds another level and Jim Hier admitted that it is another level of bureaucracy but it is needed because of the number of infractions occurring last year. Dana Williams felt that the operator should be able to obtain a number of temporary permits upfront, and strongly felt snow removal should be better regulated.

Pace Erickson detailed the snow removal brochure containing regulations and a map which is mailed to every address in Park City. Staff is intending to publicize these changes in the newspaper, on the radio and on the City's website and contact as many businesses as possible. Code enforcement will not be issuing tickets for the first offense and will put people on notice. Mr. Hier felt there should be a deadline like the first of the year, to comply with the sticker requirement. In response to a concern from Mark Dean, Pace Erickson stated that the stickers would be good for the year. He didn't feel the program is going to be difficult to implement; the City issues temporary parking passes and he felt confident that a reasonable solution can be worked out. He emphasized that the ordinance protects the public, as well as licensed providers. Jim Hier recommended that staff work with the contractors on a program.

Jerry Gibbs clarified that the focus of enforcement is not whether operators have stickers on their equipment, but whether they are plowing snow onto other people's property or into the street. The sticker is just a method for the City to identify who should be cited.

Brandon Bertagnole, Mountain Top Services, felt the stickers are a good idea because of the number of unlicensed operators. At the same time, it is another level of bureaucracy that could slow things down. He detailed removing snow from a driveway and moving it into the street and then back on the property. Leaving huge piles of snow on the side of the road hinders the City's snow removal efforts, but evenly lining it along the road is not such an issue as long as it doesn't end up in other driveways. He admitted this is a complicated issue and hoped everyone can work together. He repeated that the stickers are a good idea.

Although it is a violation of the ordinance, Jim Hier felt that spreading snow along the edge of the road rarely causes a problem, it's the piles of snow left in the middle of the

street. Joe Kernan suggested adding language where a reasonable person could make the call.

Jake Layson, Advanced Trucking and Snow Plow, urged Council to not take action until the particulars are worked out. There are too many ideas up in the air.

Jim Hier explained that specific procedures are not usually included in ordinances. Procedures are developed separately because they may change from year to year which can be done administratively without the process of amending the ordinance.

Mayor Williams revisited the fire hydrant issue, acknowledging Ms. Gezelius' comments that snow plows bury hydrants making them very difficult to clear and asking residents to clear them. Jim Hier stated that this has been a requirement for a very long time and suggested that a level of service change be discussed during the budget review. Mark Harrington pointed out that there are community service groups and the Fire Department may have resources as well for this task. The solution may be understanding what currently occurs and what needs to be augmented.

Roger Harlan, "I move we approve an Ordinance amending Section 14-4-9, Section 4-2-18(G) and Section 14-4-10 of the Municipal Code of Park City, Utah". In response to a question from Jim Hier about timing, Mr. Erickson felt the procedures could be developed by December 15 which provides some time to work with the contractors and once prepared; the procedures will be outlined in a manager's report for Council's information. Joe Kernan seconded, expressing his confidence that the details can be reasonably worked out. Brandon Bertagnole suggested identifying contractors by installing different colored driveway markers, which was not supported by anyone. Motion unanimously carried. Jim Hier thanked the snow removal operators for coming to the meeting on such short notice.

4. Consideration of award of contract to H W Lockner in the amount of \$359,602 for the Bonanza Drive design, in a form approved by the City Attorney – City Engineer Matt Cassel explained that in August 2007, H W Lockner was hired to develop a corridor and pedestrian short term (2009 – 2016) and long term (2016 – 2030) plan and Bonanza is identified in the short term improvements. These include raised medians, traffic signal at the Iron Horse and Bonanza Drive intersection, acceleration lanes at Prospector Avenue, no left turn lanes, bike lanes, bus pull-out, trail connections, pedestrian tunnel at Iron Horse, mid-block pedestrian crossings, six foot wide sidewalks up and down the whole corridor, feed-back signs, and a southbound left turn lane along with updating and replacing utilities as needed because of the construction. He added that the project will be administered by UDOT because of the federal funding received. Lockner will be providing the design, environmental work, a survey, and outreach services to businesses.

In response to a question from Candace Erickson, Mr. Cassel indicated that the proposed traffic signal requires a warrant study to determine the timing for installation. Ms. Erickson stressed that one of the reasons she was willing to support constructing a tunnel under the intersection was because the street was free-flowing. A tunnel project is very expensive and a traffic signal would seem to have the same effect by stopping traffic for pedestrians. Liza Simpson acknowledged that she discussed this with Ms. Erickson and reviewed her WALC minutes to see if the traffic signal was ever discussed. WALC was never informed of an option to install a full four-way traffic signal at the intersection and members voted to set aside funding for the Bonanza Drive tunnel based on an at-grade crosswalk and a beacon. She agreed there is no point in spending \$1 million for a second *band aid* if a light is planned. As a member of WALC, Roger Harlan recalled discussion on better delineation of the crosswalk but never any discussion on a traffic light.

Matt Cassel felt that staff could return to Council to finalize improvements at the intersection. Ms. Erickson recalled the reason for maintaining a free flow approach on Bonanza Drive and the pedestrian tunnel under the intersection was that a light would back up traffic creating other issues. Ms. Erickson reiterated that she doesn't have an issue with the traffic signal and questioned the necessity for an expensive tunnel. Matt Cassel agreed that it should be one project or the other which will be analyzed in the study. Jim Hier suggested that prohibiting left turns off of Iron Horse would solve some conflicts. The Mayor invited public input.

Shirin Spangenberg, WALC member, acknowledged the high cost of the tunnel but felt that the great thing about the tunnel was the ability to get to the Rail-Trail in a safe manner. She felt that WALC's recommendations should be seriously considered because they spent a lot of time on this feature. She clarified that she feels a tunnel is more important than a light.

Jim Hier, "I move we authorize the City Manager to execute the UDOT consultant services agreement with H W Lockner in the amount of \$359,601.93". Candace Erickson seconded. Motion unanimously carried.

5. Consideration of an Ordinance amending Title 4, Chapter 9 of the Municipal Code of Park City to require all sexually oriented businesses operating within the boundaries of Park City to obtain business licenses from Park City Municipal Corporation – Captain Rick Ryan explained that in November 2006, an amendment to the SOB Ordinance to strengthen it was made but since that time, there have been some challenges to the arrests made in Park City in the Justice Court where the judge dismissed cases because of unclear wording in our ordinance. The proposed amendment specifies that licenses must be issued by Park City Municipal Corporation

rather than the individual or the company simply having a business license. There are also minor grammatical changes proposed. The Mayor opened the public hearing; there were no comments from the audience and the hearing was closed.

Roger Harlan, "I move that we amend Title 4, Chapter 9 of the Municipal Code of Park City". Liza Simpson seconded. Motion unanimously carried.

6. Consideration of a Letter of Intent in a form approved by the City Attorney between Summit County and the City related to joint property acquisition (Kimball Junction, Round Valley) with Boyer Snyderville Junction, L.C. - and

7. Consideration of a Purchase Agreement in a form approved by the City Attorney between Boyer Snyderville Junction, L.C. (Seller) and Summit County and Park City (collectively Buyers) in the amount of \$25,000,000 for two parcels of land located at Kimball Junction and Round Valley composed of approximately 727 acres for open space acquisition and limited other public uses – Diane Foster explained that Item 6, the letter of intent, is a joint agreement between the City and Summit County to acquire approximately 727 acres of property of which at least 680 acres will be preserved as open space. She noted a minor change from the document in the meeting packet. Mayor Williams thanked everyone involved for the amount of time spent on this significant acquisition. He invited public input on the letter of intent and/or the purchase agreement.

Shirin Spangenberg, COSAC member, believed this is something the community should be very proud of.

With no further comments, the Mayor requested a motion. Jim Hier, "I move we approve the letter of intent with Summit County and authorize whoever is supposed to sign it to sign it". Roger Harlan seconded. Motion unanimously carried.

Diane Foster explained that the second action is authorization of the purchase and entering into a purchase agreement with the Boyer Company and Summit County. The City and County will be contributing \$12.5 million each and the purchase was unanimously supported by COSAC and BOSAC. The survey will include only needed features and the cost will be split equally between the City and the County. Staff is recommending that the City set aside 10 to 20 acres for future possible infrastructure needs. The Mayor invited public input; there were no comments. Mayor Williams thanked all parties involved with the purchase which will benefit all of the citizens of Park City and Summit County.

Jim Hier, "I move we approve the purchase agreement with Summit County and the Boyer Company for the purchase of open space as outlined in the staff report". Roger Harlan seconded. Motion unanimously carried.

V OLD BUSINESS (*Continued public hearings*)

Consideration of an Ordinance approving the Marsac Avenue Affordable Housing Subdivision located at 100 Marsac Avenue, Park City, Utah – Planner Brooks Robinson explained that the application is for a subdivision creating lots of record for metes and bounds parcels. On March 12, 2008, the Planning Commission ratified the pre-MPD and found compliance with the General Plan after several public hearings; this action was not appealed. On July 9, 2008, the Planning Commission approved the MPD and the preliminary plat after a work session and several public hearings and this action was not appealed. On October 22, 2008, the Planning Commission approved ten steep slope CUPs and this action was also not appealed.

He added that the Commission discussed the location of the lots which is the intent of a preliminary plat review and combined the review of the preliminary plat with the MPD and the final plat with the subdivision, which is before Council this evening. With regard to site suitability, the discussion with the Planning Commission on the MPD and subsequently on the subdivision focused on clustering, density, preservation of the historic walls, and minimizing grading and retaining walls. The original application proposed ten duplex buildings or 20 units, with a large surface parking lot which was not favored by the Planning Commission or the neighborhood. The plan was changed to ten single family units on ten individual lots with open space being created. The subdivision plan was reviewed by the Council who remanded it back after some public input to be reviewed concurrently with the steep slope CUP which was conducted by the Planning Commission on October 22, 2008. A minor height exception was granted on one building for architectural reasons. The subdivision was also reviewed and revised replacing the adjacent parking pad on the sides of the houses, with a single car garage and a tandem parking space in the driveway which had the effect of narrowing the lots. The south property line remains the same but the north property line was moved further away from the Ontario Court neighborhood by about 40 feet and Units 6 through 10 were further clustered resulting in a more compact design. Ontario Court is located in the HRL Zone and the homes are much larger than the ones proposed here or in the Prospect and/or Sandridge neighborhoods. Brooks Robinson summarized that the application is a subdivision, the Planning Commission forwarded a positive recommendation to City Council on October 22, 2008 and staff has provided findings of fact, conclusion of law and conditions of approval for the subdivision.

Joe Kernan stated that he appreciated the improvements made to the subdivision plan which now provides more separation from the Ontario Court neighborhood. Discussion

ensued on providing Council with renderings detailing the progression of plans and the computer modeling provided at the Planning Commission meeting. Brooks Robinson explained that the presentation related to the steep slope review. He continued to explain that the original 1880 Park City Survey created lots of record with the exception the Millsite Reservation. The Ontario Mill, Marsac Mill, and the loading station were located in this area but are not part of the Park City Survey; there are no lots of record. Jim Hier asked if noticing is an issue. Mr. Robinson clarified that the property was properly posted, and a courtesy notice was mailed 18 days prior to the first Planning Commission hearing. The Mayor opened the public hearing.

Ruth Gezelius, Prospect Avenue resident, stated that she remains opposed to any development on this prominent site on the entry corridor to upper Deer Valley and the visual corridor of the Historic District. It is important to recognize the scale of the neighborhood, acknowledging that the new design is much more compatible with single family sized lots than a large condominium development. Subdividing the land into ten parcels makes sense and is more compatible with the Sandridge and Prospect homes and transitions from the large homes on Ontario Court. She expressed concerns about hillside reconstruction and the severe impact of construction traffic in an area of town that has very little parking and many frustrated residents. She remains concerned about development on the site which will create pedestrian and traffic problems. The landscaping should be mature, the buffer next to the Mine Road maintained, and parking can not spill over on the Mine Road.

John Pool, resident, stated that he has been assured by Talisker that the buffer between the Mine Road and Chambers Street will be landscaped. He hasn't seen a landscape plan but understands that UDOT has approved the plan. He felt that the raised wall on the Mine Road side will help with potential parking and noise problems.

Jamie Thomas, 134 Ontario Court, stated that he represents the Ontario Court Driveway Association and Peter Barnes and distributed his notes to Council members. He believes that the recommendation to approve the subdivision from the Planning Commission is based on inadequate analysis of the project. He referred to the comments he and Peter Barnes submitted which are included in the meeting packet. At the October 22, 2008 Planning Commission meeting, Planner Robinson stated that this property was not part of the Park City Survey. Subsequently, the staff changed its opinion in the staff report and he read, "*The property does not include any lots created by the Park City Survey*". In the next paragraph he quoted, "*The Park City Survey quite obviously includes streets, blocks, smaller platted lots, and variously described parcels*". He stated that Block 51, a single platted lot, is part of the Park City Survey as are Lots 48, 49, 50, etc. as are platted Marsac Avenue, Seventh Street, the Millsite Reservation, and everything else shown on the map. To claim anything else is patently absurd and the meaning is plain. He insisted that the property is a part of the Park City Survey. He

referred to and read an excerpt from Section 15-15-1 of the LMC under Property, "*any parcel, lot, or track of land including improvements thereon in the possession of or owned by or recorded as a real property of the same person or persons. . .*"

The MPD process analysis and agreement are invalid. This is important because the project in question was presented to the Planning Commission as a density reduction from 51 units permitted to ten approved. Under existing conditions, only two parcels exist so the density increases from two to ten. He relayed that these notes were prepared by Peter Barnes in response to staff's report. The property is in Block 51, therefore the MPD process is flawed and the subdivision process was referred to during the MPD review. This is an example of why they are so concerned about the process. The Ontario Court Driveway Association was initially concerned that their property rights were infringed upon because of the emergency access proposed. As they became more involved in the process, they became more concerned about the impacts of this project on Old Town. The model that was presented at Planning Commission showed a massive project and the presentation fell short in many regards because it didn't show the view from Ontario Avenue from the north. Mr. Thomas pointed out that the steep slope CUP has been approved before the lots were created so in effect, the buildings were approved before there were lots to put them on. The Association still remains true to its concerns about property rights but are equally concerned about the way the project looks and the way it reflects on Old Town.

He recalled that at the last Council meeting, the City Attorney indicated that the driveway for 100 Marsac Avenue was for the benefit of Ontario Court residents who already have a driveway and emergency access. They support affordable housing and would like to find a design solution.

Jim Hier stated that the MPD ordinance was amended to exclude the Historic District because most of the property was already platted and to require a MPD would add another level of process. While the Millsite claim is listed on the plat, it is there because it exists not because it is platted lot within the Park City Survey. If this project were not considered as a MPD in its final stage, it would have been reviewed as a subdivision where the lots would be consistent with the HR-1 District. It would have been an appropriate subdivision under the subdivision regulations. He felt the project was processed properly by having it reviewed as an MPD, noting it was originally submitted with density greater than ten units. With the result being the same, he didn't understand the significance in trying to argue the letter of the law as opposed to the intent. Additionally, a block is not a platted lot.

Candace Erickson commented on the importance of landscaping to buffer the project. She walked the property and wished there was an alternate emergency access rather than the driveway through Ontario Court. She felt that the City is treading on private

property rights to a certain extent. Liza Simpson pointed out the alternative of making Ontario Court a public street. The Mayor discussed the current difficulty for fire trucks to reach Ontario Court in a timely and safe manner and feels that the connection will ensure improved fire protection for residents there. The access road is a much easier grade to negotiate than Ontario Avenue and he feels it is a benefit to the neighborhood; the private road issue is an argument he can't buy. Mr. Hier expressed that he was pleased to hear about the landscaping of the Chambers median. Roger Harlan agreed with the Mayor's comments about providing safer emergency access. With regard to impacts to Old Town, he pointed out the large homes on Ontario Court and the smaller homes proposed for this project. Joe Kernan thanked the public for their input, the applicant, staff, and the Planning Commission for their efforts on this project. Liza Simpson, "I move we approve the Marsac Avenue affordable housing subdivision based on the findings of fact, conclusions of law, and conditions of approval as found in the draft ordinance". Jim Hier seconded. Motion carried.

Candace Erickson stated that she is not opposed to the project and in fact, likes the design. She expressed concerns that the Ontario Court residents did not expect their private road to be extended into and used for emergency access for another project.

Candace Erickson	Nay
Roger Harlan	Aye
Jim Hier	Aye
Joe Kernan	Aye
Liza Simpson	Aye

VI ADDITIONAL DISCUSSION – AGENDA ITEMS

None.

VII ADJOURNMENT

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

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 2:30 p.m. Members in attendance were Mayor Dana Williams, Candace Erickson, Roger Harlan, Jim Hier, Joe Kernan, and Liza Simpson. Staff present was Tom Bakaly, City Manager; Stacey Noonan, Sports Complex Manager; Jason Glidden, Marketing Analyst; and Mark Harrington, City Attorney. Jim Hier "I move to close the meeting to discuss property and personnel". Joe Kernan seconded. Motion carried unanimously. The meeting opened

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at approximately 3:45 p.m. Liza Simpson, "I move to open the meeting". Joe Kernan seconded. Motion unanimously carried.

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