

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH,
JUNE 6, 2013**

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, June 6, 2013. Members in attendance were Dana Williams, Andy Beerman, Alex Butwinski, Cindy Matsumoto, Dick Peek, and Liza Simpson. Staff present was Diane Foster, City Manager; Mark Harrington, City Attorney; Shelley Hatch, Business License Analyst, Rebecca Gillis, Accounting Manager; Polly Samuels McLean, Assistant City Attorney; Wade Carpenter, Chief of Police; and Nate Rockwood, Capital Budget Manager.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

1. Bus stops on Deer Valley Drive - Kent Cashel stated that part of the Deer Valley Project contemplates removing bus stops at Greyhawk and Foxglove and acknowledged that Council has been receiving emails about this issue. He has contacted the people that have sent emails and phone calls and emphasized that there is nothing in the construction plans requiring a decision on this today. Staff has listened to input and concerns which will be addressed because there is time to do that. Matt Cassel indicated that staff is meeting tomorrow to address solutions which will be communicated to the neighborhood.

Bill Sammon, 650 Rossi Hill Drive, stated that he is strongly opposed to having the Greyhawk and Foxglove bus stop removed. He owns a Greyhawk unit as an investment property and it makes a huge difference to his guests if it is moved.

Marshall Keen, 14 year Greyhawk resident, explained that he has taken somewhere between 16,000 to 17,000 bus trips during that time and moving it another 120 yards is a lot bigger deal wearing ski boots and carrying skis. He strongly feels as Mr. Sammon about not moving it.

Rob Anderson, Greyhawk resident, pointed out that there are no sidewalks in front of the condominium and moving the bus stop would require residents to cross Deer Valley Drive walk to the new stop and cross Deer Valley Drive again.

Mike Kirkland, stated that he is an agent and a property manager for the Foxglove HOA, and is concerned about the on-going construction with the objective of making some mid-course corrections. With all of the emails today, it is great to see the willingness of both Kent and Matt to get this resolved. This mid-course direction is to keep the bus stops in front of Foxglove and for that matter, Greyhawk. It is critical because some owners and renters have health issues. He understands that the proposed distance is 100 yards which is the distance of a football field and people do not want to do that.

Some owners purchased their units because the bus stop was there. As a compromise there are probably bus stops on both sides of the street and one could be eliminated.

2. Park Silly Sunday Market – Kate Boyd expressed her appreciation of Council's continued support for the PSSM which will be opening this year this Sunday. She described new features of the Market, the schedule for Sunday, and reported that July 7, 2013 will mark 100 days of PSSM.

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

None.

IV OLD BUSINESS

Consideration of an Ordinance adopting Title 4, Chapter A – Special Event Temporary Alcoholic Beverage Licenses described in the Municipal Code of Park City and amendment Title 4, Chapter 4, Beer and Liquor Licensing; Title 4, Chapter 5, Beer Licenses described; Title 4, Chapter 6, Liquor License Described, of the Municipal Code of Park City – Shelley Hatch stated that staff presented the Ordinance on December 20, 2012 at a work session and Council recommended that staff return on a later date on Section B. On February 28, 2013, staff presented its recommendations to approve but the HPCA and business owners on Main Street requested a continuance to provide more time for review. On March 19, 2013, staff met with interested businesses and the HPCA to address concerns and the proposed changes are now supported.

Ms. Hatch explained that amendments include replacing the current Special Event Temporary Beer License and Special Event Liquor License with a Special Event Alcoholic Beverage License, eliminating the current procedure requiring a background check for all office, board members and partners. Instead staff feels it appropriate to mirror the state's practices by having applicants sign an oath attesting to their criminal background information. The license can be revoked if it is not in compliance, only bonafide corporations will be permitted to apply for a license, and all single event alcohol beverages holders must secure liquor liability insurance. She noted that servers must be TIPS-certified and Municipal Code Sections 4-4-1 through 4-6-7 have been modified to be clearer and concise. Another change is the timeframe for the Sundance Special Event Liquor License process which mirrors what the State Liquor Board requires. Ms. Hatch emphasized that a limit of 12 late but completed applications, on a first come first serve basis, will be considered and after that, no exceptions will be made. Staff is recommending that the proposed amendments to the Municipal Code be adopted which will simplify the liquor license application, provide clarity, and ensure consistency with the Municipal Code.

Polly Samuels McLean stated that she met with Mike Sweeney on Tuesday and his questions were reviewed. He suggested three minor tweaks to the amendments which staff agreed are good ideas. In 4-4-5, instead of the language *the police shall within 10*

business days after receiving such application, will say within ten business days from the date the City receives a complete application, so the whole process takes 10 business days as opposed to when the police receive it. She relayed that Mr. Sweeney suggested that in Section 4-4-8, periodic inspection of premises by Chief of Police, adding code enforcement officers and staff agreed. Lastly, there was a typo in terms of 4-14-4, replacing the term individual with the term entity.

Chief Wade Carpenter felt these changes will be helpful for consistency with state law and will simplify the application process for everyone. Cindy Matsumoto expressed confusion about the deadline after the deadline for Sundance applications. Ms. McLean explained that the DABC requires people to get their applications in by the 10th of the month prior to their event and have a special exception. Part of the direction to staff in December, was to consider adding special exceptions. Andy Beerman understood that the City cannot charge a late fee. Ms. McLean stated that business licensing is subsidized by the City but the exact amount has not been calculated by the Finance Department because of other priorities. Mr. Harrington added that the late charge will return to Council which will still be less than the City's subsidy. Andy Beerman asked if Sundance has accepted the TIPS-certification requirement and Chief Carpenter stated that it is a state requirement for serving alcohol. Mark Harrington explained that it affects events where the City requires licenses but the state doesn't.

Mr. Beerman expressed concerns about the need for Council approval which seems to add to the workload and timeline and he felt it doesn't need to be that complicated. Mr. Harrington felt it is just the opposite. Staff believes that by moving the deadline up, it will be more efficient from staff's perspective because they won't be inundated with last minute requests and because of Sundance's commitments under the Master Festival License Agreement, and primarily being under the state process, it levels the playing field by getting applications in early anyway. By state code, the City cannot artificially come up with an application deadline that mirrors the state because the deadline has to be based on the time it takes to process an application. Having Council retain the delegated authority accomplishes two things, one it gives a higher level of capacity assessment in terms of looking at all of the licenses in advance so that a policy decision can be made. Mr. Harrington stated that once an applicant meets administrative criteria, denial is not an option and two; it puts Council members in a better position to proactively address the over-crowding issue. Last year there was a huge bump in over-crowding and the timing is good. The changes level the playing field in terms of all of the application deadlines for the state process and requiring host events to submit an application in December. It will likely have some impact in terms of the marketability of some properties who decide to lease at the last minute but it will benefit others that already have licensed facilities and just want an add-on. He didn't think it will really have a negative or adverse economic impact and it will put the City in a better position to manage the process and avoid the last minute crunch at the window. When information is processed quickly, there is no opportunity to verify what is represented on the applications.

Andy Beerman understood that an application will have to go through the submittal process and then a week or more to get on an agenda and wondered if the deadline should be late November with the holidays. Mark Harrington stated that staff looked at the timing and 90% of the applicants will have to comply with the same state deadline and would have the same information into the City by the December 10th range. Applications will be able to be heard by Council before the holiday break. Staff envisions approvals to be scheduled on the Consent Agenda and staff would flag any capacity or public safety issues. This doesn't really add to staff workload and it would give them an opportunity to vet potential problems. Mark Harrington felt that applications should be submitted ten days prior to the meeting.

Alex Butwinski asked how the late applications receive Council approval. Mr. Harrington stated that it is about another ten day span and it is a little tighter, especially because of the holidays, which justifies a higher fee. No more than the first 12 applications will be processed and he explained the methodology for determining the timeframes. He reiterated that it will be much better than dealing with the crunch at the window with all of the taxis as well. Staff is confident that the proposed process is more efficient. The late fee was discussed which needs to be tied to actual administrative costs and the state has a fee differential as well. The Mayor opened the public hearing.

Seth, owner of The Downstairs, 625 Main Street, feels the new permit system covers many bases but he feels there is an area not addressed. Different clubs rent spaces that don't have a liquor license. They have a guest list and give people free drinks and can operate until 4 a.m. which is a huge issue for him because his permanent business is basically being penalized. The DABC does not require a license because they are not selling liquor and regulation is within the jurisdiction of the City. He hoped that the liquor laws could change but probably not before Sundance; this is unfair to licensed businesses and he would like to see is a level playing field. He felt that the leased areas should be required to stop serving liquor at 1 a.m. and have people off the premises by 2 a.m. His tenants have been very upset about the regulation. He recommended replacing the word *sell* with *furnish* liquor in the Ordinance so that parties will be required to be licensed. They don't have to have TIPS-certified servers or comply with other restrictions and he is hoping to see this legislation include the same requirements.

Mark Harrington stated that the City agrees with him and is working actively with the state to try to expand the regulation because closure is a function of state law not the City's Ordinance. It is very difficult for the City to monitor the hours of private parties without getting into regulating the hours of all private parties. Council has made the consistent policy decision to not address hours at the Main Street locations because private parties were a bigger issue in residential neighborhoods and had a bigger impact. The intent was to move them out of neighborhoods to Main Street. Leased licensed premises were allowed to stay open longer after hours as long as the restrictions are followed and the limitation is somewhat recent. He explained that the City is trying to get this changed but to go back the other way would prompt additional

policy issues for neighborhoods that at a staff level would not be recommended. Diane Foster interjected that staff met with our lobbyist a month ago and talked about a strategy of addressing this at the legislative level. A meeting will be arranged with Senator Valentine who is the point person on most of the liquor bills and the ULCT understands why this is not only an economic issue for Park City, but a public safety issue.

Chief Wade Carpenter discussed trying to push a ten day permit through early in the session but it was shut down by the legislature. Seth acknowledged that steps are being taken but the delay is hurting permanent businesses because there is a gap in how these parties are being managed and he pointed out other illegal activities. Hopefully this is something that can be taken care of.

Mark Harrington clarified for Liza Simpson that the goal is to allow a private party in licensed premises after hours for a hosted event.

Mary Wintzer, 320 McHenry Avenue, agreed with Seth and added that many of our long-time restaurant owners have experienced this same cut-back in private parties and revenue that they were used to having. She heard complaints about the loss of private parties and it has a large economic impact and she suggested increasing the fees to help sustain some of our long-time Main Street business owners who pay their taxes year round. It is a hard pill to swallow if other folks are coming in for two weeks and taking a lot of their revenue.

Alison Butz, HPCA, thanked staff for the time spent on the Ordinance. Two separate meetings were held to educate restaurant owners and others in the community to explain the changes. She felt Seth said it really well about leveling the playing field. HPCA has both groups as members and the membership is fairly comfortable with the Ordinance as written but encourages the lobbying efforts of the City to make sure that hours are extended to everyone and that everyone has the same ability to host an event.

Mike Sweeney, business owner, believes there are some misconceptions. He owns a facility and has tenants that have the choice of leasing out the space during Sundance or running the facility as a business at Sundance. He has two restaurants, a bar and a deck with PCMR and he probably permitted 22 different facilities on Main Street last year and has a good perspective of what the Ordinance will do. If you're going to have private parties, they go to the bars and then to the parties at midnight which go to 3 a.m. to 5 a.m. A liquor license needs to be pulled there, but because it is a private party, it is not regulated by the DABC. Under the auspices of the City, they are engaging in business and anybody coming to Park City during Sundance is required to pull one to two licenses. Liquor licenses require certified servers, insurance but it is for a short period of time. He can make more money during Sundance leasing space out than running a business. His two restaurants are leased for private parties. There are many businesses on Main Street that are not restaurant or bars and he felt there are 40 to 50

businesses that are dependent on the extra revenue coming in to survive the rest of the year. There is a dynamic going on that supports the whole street and both sides are represented in the HPCA.

He spoke about working with the Legal Department and going through the document. This is a pretty good document but there are philosophical policy positions that he has different than staff. Mr. Sweeney emphasized that Park City needs to stay competitive and suggested simplifying the permitting process, and creating a level playing field with competition from Summit County. He recommended simplifying the license code to engage in business in Park City during the Sundance Film Festival. This is how a resort community makes money and it is important that these people come to Park City to engage in business. The County will have an impact on the core business in the City.

He suggested that the form conform to the state's form. With regard to the special event liquor license going before the Council, the staff has a good way of getting the job done and has never failed to get the job done issuing licenses. There should be a time limit or a cut-off date. He is already working with people interested in leasing a space on Main Street. He asked the City Council to consider not capping late applications to 12 and allow something like 15. It would be better to have staff take on the responsibility since they do a good job and can make good decisions.

It is good that the City is mirroring state regulations except for single event licenses here in the City which the DABC doesn't require because it is a private party. If alcohol is being served, a liquor license must be issued by the City. He suggested referencing the paragraph about the appeal process in this section of the Code. The Mayor asked if this is a problem and Polly McLean explained that the appeal process is already set forth in the Code and there is no need to put it in the section again but it could be done either way. This point was discussed at length. Polly McLean noted that Mr. Sweeney wanted a definition of liquor license insurance but there are different types of insurance and not all businesses can obtain a Dram Shop rider therefore the Ordinance is vaguer so that applicants can obtain liquor liability insurance if they are not able to get Dram Shop insurance. Mark Harrington stated that the market could create another add-on and it is more advantageous to the applicant to have it remain open. He explained that changing the form can be achieved administratively, but Mr. Sweeney discussed his recommendations in any event. He suggested using the same form as the DABC and elaborated on the contents of the form. This form could be copied and submitted to the City.

Andy Beerman stated that Mary Wintzer and Mike Sweeney bring up good points in that there are many small businesses in town that depend on these private parties and he wants to make sure that the changes will not critically affect them. He worries about the deadline and limiting late applications to 12 and he asked about last year. Shelley Hatch advised that the total was 49 businesses in 2012 and 18 were processed in less than ten working days and nine during Sundance. He asked how many were processed after December 10th and Mr. Harrington stated that licenses were not tracked

specifically to that date but there were 27 late applications. Mr. Beerman believed that with a limit of 12, there will probably be businesses that will not get liquor licenses. Polly McLean commented on the number of private parties versus how many needed local consent from the City to go to the DABC. In 2013, there were 41, of which 13 were for private parties and 28 were local consent. Mark Harrington emphasized that local consent applicants all had to have their information into the DABC by December 10th anyway. Ms. McLean indicated that she talked with the DABC to ask about its special exception process and it has had one in place since last July. In those ten months, the DABC has only had two or three special meetings to accommodate people who didn't meet the deadline. Mr. Harrington believed that advance notice is very effective. With no further input, the public hearing was closed.

Cindy Matsumoto asked about using the state form and copying it for the City. Chief Carpenter explained that the police needs to have all of the names of the partners involved so the Department has all of the information needed. Mark Harrington suggested a motion incorporating the changes stated by the Assistant City Attorney with the additional change of adding a reference of Section 4-4-24 in Section 4-4-9(4). Cindy Matsumoto, "I so move". Dick Peek seconded. Motion unanimously carried.

V NEW BUSINESS

1. Consideration of an Ordinance adopting the Tentative Revised Budget for Fiscal Year 2013-2014 and the Tentative Proposed Budget for Fiscal Year 2014-2015 for Park City Municipal Corporation and its related agencies – Nate Rockwood explained that the tentative budget must be adopted ten days before the final budget which is scheduled on June 20th. He made corrections to the Ordinance updating the year. The Mayor opened the public hearing; there was none and the public hearing was closed. Andy Beerman, "I move we adopt the Tentative Revised Budget for Fiscal Year 2013-2014 and the Tentative Proposed Budget for Fiscal Year 2014-2015". Alex Butwinski seconded. Motion unanimously carried.

2. Consideration of a Resolution amending the Fee Resolution and replacing Resolution No. 15-12 in its entirety – The Mayor opened the public hearing; there were no comments and the public hearing was closed. Liza Simpson, "I move we approve a Resolution amending the Fee Resolution and replacing Resolution No. 15-12 in its entirety". Dick Peek seconded. Motion unanimously carried.

3. Consideration of an Ordinance establishing compensation for the Mayor, City Council and statutory officers for Fiscal Year 2013-2014 in Park City, Utah – The Mayor opened the public hearing; there were no comments and the public hearing was closed. Cindy Matsumoto, "I move that we pass the Ordinance establishing compensation for the Mayor, City Council and statutory officers for Fiscal Year 2013-2014 in Park City, Utah". Liza Simpson seconded. Motion unanimously carried.

4. Consideration of a Resolution adopting the Comprehensive Emergency Management Plan – The Mayor opened the public; there was no input and the public hearing was closed. Dick Peek, “I move we adopt the Resolution adopting the Comprehensive Emergency Management Plan”. Liza Simpson seconded. Motion unanimously carried.

VI ADJOURNMENT

With no further business, the regular meeting of the City Council was adjourned and a Redevelopment Agency meeting convened.

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 2 p.m. Members in attendance were Mayor Dana Williams, Andy Beerman, Alex Butwinski, Cindy Matsumoto, Dick Peek, and Liza Simpson. Staff present was Diane Foster, City Manager; Joan Card, Environmental and Regulatory Manager; Nate Rockwood, Capital Budget Manager; Matt Cassel, City Engineer; Heinrich Deters, Trails and Open Space manager; Lori Collett, Finance Manager; Jed Briggs, Operating Budget Manager; and Mark Harrington, City Attorney. Alex Butwinski, “I move to close the meeting to discuss property and litigation”. Liza Simpson seconded. Motion carried unanimously. The meeting opened at approximately 4:20 p.m. Andy Beerman, “I move to open the meeting”. Dick Peek 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, City Recorder

