

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
SPECIAL WORK SESSION – GENERAL PLAN
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
DECEMBER 11, 2012

COMMISSIONERS IN ATTENDANCE:

Nann Worel, Brooke Hontz, Stewart Gross, Mick Savage, Adam Strachan, Jack Thomas, Charlie Wintzer

EX OFFICIO:

Planning Director, Thomas Eddington; Katie Cattan, Planner; Anya Grahn, Planner; Francisco Astroga, Planner; Matt Evans, Planner; Polly Samuels McLean, Assistant City Attorney

SPECIAL WORK SESSION – GENERAL PLAN

ROLL CALL

Chair Worel called the meeting to order at 5:35 p.m. and noted that all Commissioners were present except Commissioner Savage, who arrived later in the meeting.

ADOPTION OF MINUTES OF NOVEMBER 27, 2012

MOTION: Commissioner Hontz moved to APPROVE the minutes of November 27, 2012 as written. Commissioner Wintzer seconded the motion.

VOTE: The motion passed 5-0. Commissioner Thomas abstained since he was absent on November 27th. Commissioner Savage was not present for the vote.

PUBLIC COMMUNICATIONS

There were no comments.

STAFF OR BOARD COMMUNICATIONS/DISCLOSURES

Chair Worel disclosed that the Planning Staff and Planning Commission would hold their annual Christmas party following this meeting.

Director Eddington reported that the Planning Commission would hold their regular meeting the following evening, November 28th. The meeting would begin at 4:30 with a site visit to Echo Spur and 30 Sampson Avenue.

Commissioner Thomas asked if it was strictly a site visit or whether there would be discussion at the site. Director Eddington stated that any discussion would take place during the regular meeting and not at the site. He noted that balloons may be flown depending on the wind, but the Staff would not

know that until later in the day. Commissioner Thomas stated that he was very familiar with the site and he would probably not participate in the site visit.

Assistant City Attorney McLean noted that the applicant would be at the site visit, and even though the Planning Commission would not have a discussion until the regular meeting, it would be appropriate to ask questions pertaining to the site during the site visit. She recommended that all the Commissioners attend if possible.

Commissioner Wintzer had visited the site the day before and noticed that there were no stakes in relation to the property line. Director Eddington would confirm that the stakes are in prior to the site visit.

WORK SESSION – GENERAL PLAN – Review of draft core Values for General Plan including Sense of Community and Historic Character

Planner Cattan provided a brief overview of how the new General Plan was set up. Within the 2009 Visioning the community identified core values; sense of community, natural setting, small town and historic character. In order for Park City to remain Park City, those values should not change. Unique attributes and qualities that make Park City different from other communities will evolve and change over time. In the past it would have been the mining community; however now world class skiing and recreation drives the economy. The influenced levers are the things they should be quantifying over time to see how it influences the environment, quality of life, social equity of people, and economic impact.

Planner Cattan stated that all of the elements within a typical General Plan would be under each of the categories. The focus this evening would be historic character and historic preservation. Historic Character is a core value that should remain.

Planner Cattan remarked that Historic Character is the mining history which began in 1868. Park City has two National Register of Historic Districts; one being the Main Street District and the second the Mining Boom Era District, which is the thematic district with all the homes throughout. Those are included within the zoning ordinances as the H Districts.

Director Eddington clarified that the Historic District has a geographic boundary, but the Thematic District does not.

Planner Cattan had a series of questions for the Planning Commission to answer using clickers.

The first question was, what is your biggest concern with historic preservation; 1) the integrity and authenticity of the Districts; 2) the streetscape pedestrian experience and compatibility; 3) steep slope development.

The Commissioners voted and the result was: 1) 29% 2) 29% 3) 43%.

Commissioner Hontz thought number 3 was the biggest threat to number 1. Commissioner Wintzer thought a fourth option to choose all of the above would have produced a more accurate answer. Planner Cattan stated that the intent was to have the Planning Commission prioritize the concern. Commissioner Savage thought the question was difficult to answer because Steep Slope development is a process related issue; whereas, integrity and authenticity is a concept.

Director Eddington stated that these were three of the biggest challenges the Staff faces internally. Is this a threat to the integrity, does it threaten the compatibility, or does it threaten steep slope challenges. He understood that the question was challenging in how it was worded.

Commissioner Wintzer stated that his biggest concern with historic preservation was scale and mass. It is what the City has lost and continues to lose. They are so far beyond what was here in the past that they have lost the sense of mining community.

Commissioner Thomas could see value in all three choices and how they were interrelated. He would have preferred an all of the above choice.

Planner Cattan asked the Planning Commission to discuss their biggest concerns. Commissioner Thomas stated that it is the integrity of the streetscape on steep slopes. Commissioner Hontz felt that went to option 3. She was not concerned with new development unless it is an enormous house crawling up the hill. Director Eddington remarked that mass and scale could be seen outside of steep slope.

Planner Cattan stated that Goal 14 was to Preserve the integrity, scale and historic fabric of the locally designated historic resources in Districts for future generations. She noted that a question was asked during the City Council presentation of why the Goal does not say the National Historic Districts. She explained that there is more inventory on the local inventories than on the national inventories. For that reason, they did not specify the national districts because it would not capture as many historic resources.

Commissioner Savage stated that in thinking about the historic areas in Park City, a major issue was accessibility because those areas are not particularly walkable or accessible. He asked if they could consider accessibility as a criteria in the Land Management Code going into the future. Commissioner Savage pointed out that the roads in some of the more interesting historic areas are narrow and problematic, particularly in the winter. He suggested that they begin to think of ways to mitigate some of those issues as it relates to how they approve or allow developments to take place in some of those areas.

Commissioner Thomas felt the challenge was preserving the historic character of those narrow streets and streetscapes and having a good engineer to make the streets work. Commissioner Wintzer agreed that part of the historic character of the town is the narrowness of the streets and the close proximity of the houses to the street. It is all important history.

Director Eddington stated that a transportation plan was done a year ago and a heavily discussed point was the width of the street in Old Town. The group decided to try and keep the narrow streets. They talked about adding sidewalks to many streets in Park City, but primarily in the areas

that could accommodate sidewalks. Most of the Old Town streets do not have the right-of-way to add sidewalks, the slope is challenging, and the streets should be complete streets used for bikes, strollers, pedestrians, cars, etc. Director Eddington believed that keeping the roads narrow and functional would be an ongoing challenge. Planner Cattan noted that one of the strategies for preserving historic homes was to give the car less emphasis.

Commissioner Thomas pointed out that as they modernize they tend to address engineering concerns first and architectural character last. He thought they should raise the architectural character factor and make it as significant as engineering; however, he was unsure how they could start weaving architectural character into the Code. Commissioner Savage agreed with Commissioner Thomas. He believed that "look and feel" was the highest purpose for what they were trying to accomplish. Planner Cattan pointed out that Commissioner Savage had defined housing as the highest purpose at the last meeting. Commissioner Savage clarified that now they were talking about the appearance of the housing.

Director Eddington stated that Form Based Code and the Design Guidelines were starting to address architecture for the Historic Districts, but he agreed that there needed to be a more over-arching qualitative approach to the Code.

The next question was whether the beginning of the ski industry was part of Park City's historic character. The Commissioners voted and the result was 100% yes.

Planner Cattan stated that the action strategy was to expand the existing historic districts to include the onset of the ski industry in Park City and to preserve the unique built structures representative of this era. She clarified that it would expand the inventory to include the onset of the ski era. Planner Cattan asked if the Planning Commission agreed with the strategy.

The Commissioner voted and the result was 100% yes.

The next question asked the Planning Commission to prioritize the following financial incentives: 1) Matching grant; 2) Revolving loan fund; 3) Tax abatement for historic structures.

Planner Cattan explained that the City currently has a financial grant program. A revolving loan fund would be creating a stream of money that someone could take a loan against, and as they pay it back the next person could take a loan against those funds. It would revolve throughout the community to help with improvements. Tax abatement allows a full-time resident living in a historic home to decrease or eliminate their tax payment if they meet certain criteria. Tax abatement also requires agreement by the County.

The Planning Commission voted and the result was: 1) 30% 2) 28% 3) 42%.

The next question related to outreach and education for the community to promote historic preservation. The Planning Commission was asked to prioritize the following strategies:

1) Historic District public outreach program to promote preservation incentives; 2) Preservation training to Staff, Boards and Public; 3) Self-Guided walking tour of Landmark Structures.

Planner Cattan remarked that the first and second strategies related to training. The third strategy was cultural tourism.

The Commissioners voted and the result was: 1) 34% 2) 42% 3) 24%

Commissioner Strachan stated that a common scenario is someone from out-of-state coming to Park City to purchase a second home for eventual retirement. The City wants them to preserve their historic structure, but they have no idea they are supposed to do that or whether they would want to do that or could afford it. The buyer would only find out when they get their tax bill and they find a potential deduction for preserving their historic home. Commissioner Strachan remarked that owners generally do not pursue information on how they could get the deduction.

Planner Cattan stated that the pre-application process allows the owner to discuss their options before they submit an application, and they are informed of the grant program at that time. Commissioner Hontz pointed out that if the owner is in the pre-application process they have already purchased the house. She suggested that they educate the realtors so they can inform the buyers of the incentives before they make the purchase.

Commissioner Thomas believed tax incentive was a major aspect.

Commissioner Strachan did not think a self-guided walking tour of Landmark structures would encourage people to preserve their historic home. In his opinion, it was not a workable incentive. Commissioner Savage suggested that they do something that was more focused and proactive. He thought they should try to target specific national historic places and encourage people to improve those structures, using the matching grant as an incentive.

Planner Cattan stated that Director Eddington has worked with the Building Department on targeting historic structures. Director Eddington explained that this is typically done in an area where there are safety or structural concerns associated with a particular structure. He noted that two years ago the Planning Commission added a clause to the LMC that disallowed demolition by neglect. That allowed the City to encourage the homeowner to stabilize the structure. If the owner cannot or will not do it, the City has a budget to stabilize the structure and lien the property for repayment. Director Eddington pointed out that this only occurs in extreme circumstances and it does not address aesthetically challenged buildings.

The next question for discussion was what role Main Street currently plays in Park City. Commissioner Thomas remarked that Main Street is the focal point of the community. It is the heart and soul of Park City. People are drawn to Main Street primarily because of its character and Old Town nature. Without Main Street Park City would lose its identity.

Commissioner Wintzer agreed that Main Street is their identity. When tourists come to Park City they come to ski but they talk about Old Town. Planner Cattan asked if Main Street plays a different role for the locals. The Commissioners answered yes. Commissioner Hontz believed that one commonality for the locals and the tourists is that everyone wants to go to Main Street and it makes them feel good about being part of the community.

Planner Cattan stated that the last General Plan had a lot of strategies towards arts and culture and tourism on Main Street, but fewer strategies for bringing locals to Main Street. She noted that creating strategies to bring more locals to Main Street would cost money due to the higher square footage rates compared to other areas. Commissioner Gross asked if the reference to locals was Park City only or if it encompassed Summit County. Planner Cattan replied that it was both.

The next question for the Planning Commission was whether the General Plan should strategize to have more attractions for locals on Main Street, which typically requires subsidizing by local government.

The Commissioners voted and the result was 57% Yes and 43% No.

Commissioner Gross clarified that the reference to Main Street was the Historic District. Planner Cattan replied that this was correct. The Commissioners discussed different events that could be considered local attractions. Commissioner Wintzer believed that without a grocery store or some type of service, the locals would be less inclined to go to Main Street. Commissioner Thomas agreed. In the past, Main Street was the central place for locals. Commissioner Wintzer stated that when he first came to Park City there was nothing outside of Main Street. Main Street had two grocery stores, a hardware store and clothing stores and that was where people shopped. Commissioner Savage stated that the Post Office is usually what brings him to Main Street, and other things happen as a consequence of that trip. From the standpoint of local residents, losing the Post Office would be a critical blow to Main Street.

Director Eddington asked if Main Street was an entertainment district or the downtown corridor. The Commissioners concurred that it was entertainment. Commissioner Strachan did not think they would ever recover the days of having a market on Main Street. Commissioner Thomas thought a small general store might be possible.

Planner Cattan noted that Heber has a Main Street; and they also have a recently developed Walmart that is pulling business from Main Street. That trend has been occurring throughout the United States. It is a big planning issue of whether to keep local resources on Main Street to entice the locals to shop there. Planner Cattan recognized that Park City is different because they are a tourist industry, but the question was geared to keeping the Post Office and other resources for locals on Main Street.

Commissioner Gross pointed out that the City has no control over the Post Office. Director Eddington replied that the City has a little control based on zoning and other issues. Planner Cattan noted that a lot of families come to Main Street to drop off their kids for free tutoring at the Tutoring Center on Swede Alley. The liquor store is another resource that is subsidized by the City and draws people to Main Street.

Commissioner Wintzer believed the biggest problem was the second home growth in Old Town. If Old Town is 60% second homes, that means Old Town is 60% empty 90% of the time. It is difficult if you have to get in your car to shop on Main Street. Commissioner Wintzer stated that he always thought the City had traded sales tax for property tax in how they market and incentivize second homes. He was unsure how they could revive Main Street for the locals without having people who

live there year-round. Planner Astorga asked if Commissioner Wintzer thought that was the reason why the two grocery stores were no longer on Main Street. Commissioner Wintzer stated that the grocery stores moved because they could not expand or take deliveries on Main Street. It would be impossible to have a grocery store on Main Street today and accommodate the semi-trucks that deliver to the stores. Commissioner Thomas thought a small neighborhood market would work. Those markets are seen throughout small towns in Europe.

Commissioner Thomas remarked that they want Old Town to be a walkable community with residential neighborhoods and affordable housing, yet people have to get in their cars and drive somewhere else to shop. He suggested that they think of being a little more hybrid where there is a small scale version that provides a central place to shop. Commissioner Wintzer noted that there used to be a place underneath the Red Banjo, but there is not the mass to support it without year-round residents.

A member of the public stated that if it was economically feasible, someone would have a store on Main Street. He believed they discovered a long time ago that it does not work. Commissioner Thomas stated that it may not work, but they were talking about subsidizing to create the ability, and if it did work it would create a more purposeful downtown.

The suggestion was made by a member of the public to take the portion of the liquor store where they keep boxes, and turn that into a subsidized market that the Market or Fresh Market could use as a satellite store. When people stop to buy liquor they could purchase other essential items.

Assistant City Attorney McLean noted that the Staff report did not include input from the Historic Preservation Board. She thought it would be helpful for the Planning Commission to hear some of the comments from that Board on these issues.

Planner Cattan reported that on the question of attractions on Main Street for locals, the HPB voted 100% yes. The HPB felt strongly about having strategies that support continued visits by locals to Main Street. On all other yes or no questions, the HPB were 100% in favor. When the questions asked the HPB to prioritize, the answers were mixed at 33% for each category, with the exception of open meetings to educate the public and Staff and the Board Members. There was a lot of support from the HPB for education.

Planner Cattan stated that Goal 15 was to Maintain Main Street as the heart of the City for Cultural Tourism for visitors and residents alike. Some ideas would be a local grocery store, a splash pad, the Mega Genius, and an indoor climbing gym or recreation component. She asked for ideas on other uses that could attract locals. One suggestion was mine tours. Commissioner Gross suggested that they could bring back the old subways. Director Eddington commented on the number of people who visit the Museum on Main Street. Commissioner Savage thought those were more tourist attractions than local attractions.

Commissioner Wintzer stated that Charlie Sturgis used to have a bike and cross country ski shop underneath the Sky Lodge. That shop brought more people to Main Street for destination shopping than anything else they have seen in a long while.

Planner Cattan noted that Phyllis Robinson had wanted to attend this meeting to follow up on the conversation they had at the last meeting about distribution of affordable housing. Unfortunately she was out of town and had to postpone. Planner Cattan stated that the Planning Commission would have that conversation with Ms. Robinson at a later date.

Commissioner Wintzer referred to page 34 of the Staff report and the statement about economic development to complement historic character. On KCPW this morning, he heard a comment by Randy Barton that historic preservation depends upon how the economy is going at that time. He understood that Mr. Barton was being a little sarcastic, but he thought there was some truth to it. Commissioner Wintzer felt it was important to make sure that historic preservation is not linked to today's economy. It is a long term venture that goes forever. They cannot let a short term economy interfere with the long term economy of having Main Street as a destination in Old Town. Commissioner Thomas thought it was a great point because they are always challenged with historic significance and economic development.

Commissioner Wintzer felt that vertical zoning on Main Street was important and it was one of the better things they did as a Planning Commission. They have been able to keep offices off of the first floor and use that space for retail and restaurant opportunities. It is an important character for Main Street. Commissioner Strachan stated that not having chain stores was also an important factor. Commissioner Wintzer pointed out that Roots is a chain store, and that fits Main Street very well. He was not opposed to having chain stores on Main Street as long as it fits with the community. He was more concerned with the mass of chain stores and not necessarily that it is a national chain.

Legal Training – Open and Public Meetings Act

Assistant City Attorney McLean stated that this was the annual Open and Public Meetings Act training required by State law. She reminded the Commissioners to update their disclosure forms with the City Recorder any time there is a change of status or when they are re-appointed.

Regarding the role of Staff, Ms. McLean stated that the Staff gives the Planning Commission their professional opinion and recommendation. However, it is only an opinion and the Planning Commission does not have to follow the Staff advice. Ms. McLean remarked that the same is true with her. She provides a legal recommendation but they do not always have to follow her advice. Ms. McLean noted that the Chair or the presiding office is tasked with ensuring that the members are provided with annual training.

Assistant City Attorney McLean commented on the spirit of the act and the importance of conducting themselves in a transparent and public manner. To promote the idea of open government and not back door deals, is to ensure that all discussions have been in a public forum. The most common complaint is that a decision was pre-determined because people were talking behind closed doors. Following the spirit of the act and making decisions openly prevents that perception.

Assistant City Attorney McLean clarified that "open" means "in the public". It does not mean that there always has to be a public hearing on every discussion, but they do have to have that conversation in front of the public.

Ms. McLean stated that Disclosures are listed on the Agenda to remind the Commissioners to make necessary disclosures. In addition to conflicts of interest, they should also disclose if they were approached by someone outside of the regular meeting who gave them information. That disclosure gives everyone the benefit of having that same information and it also alleviates the appearance of a back door deal.

Commissioner Savage stated that he ran into Mark Fischer and had a conversation about a variety of things, some of which related to the future of Bonanza Park. Since there were currently no projects before the Planning Commission related to Bonanza Park, he asked if that conversation should be disclosed. Ms. McLean replied that Bonanza Park is essentially an issue before the Planning Commission in terms of the General Plan and Form Based Code. The appropriate time to disclose his conversation is when that item is scheduled on the agenda. Ms. McLean stated that if a Commissioner has information that they feel is germane, it could be disclosed under the Staff/Commissioners Communications and Disclosures portion of the meeting. Ms. McLean noted that the best way for the Commissioners to handle matters when they are approached by someone is to encourage that person to attend the next meeting because what they have to say is valuable and everyone should hear it. Another option is for that person to submit their comments in a letter or email to the Staff so it can be included in the Staff report for all the Planning Commissioners.

Assistant City Attorney McLean stated that for the Planning Commission, a meeting is four members including the Chair. No business should be conducted at a meeting unless a quorum is present, and that includes a work session. Social gatherings for the Planning Commission are noticed or announced to avoid giving the wrong perception. Ms. McLean remarked that most jurisdictions would not recommend that the Commissioners meet socially after a meeting. The City Attorney's office has taken the stand that it is important for various reasons, but there are risks involved. For that reason either she or the City Attorney try to be present to make sure the conversation does not steer towards Planning Commission business. The same procedure is followed for the City Council.

Commissioner Strachan asked if it would be an issue if two Planning Commissioners and two City Council members met in a social setting. Ms. McLean replied that it would still be permissible and it would not be considered a meeting. However, she would caution them to be careful about the subject of their conversations. For instance, a matter before the Planning Commission could be appealed to the City Council.

City Attorney McLean stated that in the end it goes to the idea of conducting the public's business in public. The brainstorming of ideas that occurs when discussing an application should take place in the public forum so everyone can participate.

Chair Worel asked about a private party where four Commissioners and four City Council members may attend. Ms. McLean replied that public business cannot be discussed, even at private parties.

Ms. McLean noted that the Chair of the Planning Commission does not vote unless it is needed to break a tie. However, the Vice-Chair or anyone who substitutes for the Chair can vote.

Assistant City Attorney McLean emphasized that group emails among the Commissioners could result in discussion and that would violate the Act. This applies to all electronic communication including instant messaging. Ms. McLean stated that even if one on one electronic communication is permissible under the Open Public Meetings Act, all correspondence would be subject to the GRAMA laws, which are the Government Records laws. Someone could ask for records of emails discussing a certain item. To avoid being put in that position, those emails should not be created. Ms. McLean noted that the primary reason for giving each Commissioner a City email account was to bifurcate City business from their personal and professional business. Commissioner Strachan stated that the City email system did not function well. He logs on but there are no messages when he knows that something was sent. His assistant has called IT several times but they cannot get it to work.

Ms. McLean reviewed the retention requirements. Emails are retained until the administrative need ends. Once there is no longer an administrative need, the emails can be deleted. The Staff reports are preserved and kept indefinitely. Ms. McLean stated that in 2011 or 2012 the State Legislature announced that everyone could send electronic messages to each other; however, they failed to mention that it would then become discoverable.

Assistant City Attorney McLean stated that Legislatively the Planning Commission has the most latitude in terms of talking to each other. Administrative is more restrictive. Any evidence received outside of this forum should be disclosed. Quasi-Judicial are appeals and the Planning Commission acts as a judge in that capacity. Quasi-Judicial is the most restrictive. Emails regarding pending matters should be deleted immediately and not read if they are about a pending appeal.

Ms. McLean stated that disclosure is required for any personal interest by a City Officer, which creates a conflict between the official's personal interest and his public duties, shall be disclosed in open meeting to the members of the municipal body. That disclosure statement shall be entered into the minutes of the meeting. Ms. McLean stated that Utah law very rarely requires recusal, but disclosure is the ultimate protection. If anyone receives an ex parte communication, the Code requires that it be written down and made part of the record in a disclosure. They should try to stop ex parte communication before it occurs.

Assistant City Attorney McLean stated that meetings must be held in the City Council Chambers. That only exception are site visits, electronic meetings, and emergency meetings. The full meeting must be held in one location, with the exception of site visits. Discussions cannot take place at sites visits because there is no way to record it or take minutes. A summary of the site visit is incorporated in the written minutes. Ms. McLean noted that a few years ago the Planning Commission adopted a policy for electronic meetings. That policy can be revisited, but currently it allows Commissioners to participate electronically if they are out-of-town. The Planning Commission would have no reason for closed meetings.

Assistant City Attorney McLean stated that noticing is a constant complaint. The City ordinance requires certain noticing and there are noticing requirements under the Open Public Meeting Act. The Open Public Meeting Act only requires notice to be 24 hours prior to the meeting. It must state the agenda, date, time and place and be specific enough to be informative. Ms. McLean noted that

the Municipal noticing is longer than 24 hours. Items such as subdivisions and LMC Amendments are noticed 14 days in advance.

Ms. McLean reiterated that all meetings are open to the public. A public hearing is the opportunity for the public to speak. She clarified that the Open and Public Meeting is actually the deliberations that take place in front of the public. The Planning Commission does not have to tolerate rude and disruptive people during a public hearing. The time belongs to the entire public and not one individual. All meetings are recorded and written minutes are produced. The minutes are the official record of the meeting and it is important to make sure they are accurate. Emergency meetings must meet certain requirements before one can be held.

Assistant City Attorney McLean stated that a public body that knowingly and intentionally violates the Open Public Meetings Act is charged with a Class B Misdemeanor and it would be handled through the Attorney General's Office or the County Attorney.

Commissioner Thomas found the conditional use aspects interesting when the State Ombudsman spoke to the Planning Commission. He realized that the State law has changed and that a conditional use has a different status than it did before. He was left with the feeling that a conditional use is an approved. Ms. McLean replied that this was correct. A conditional use is an allowed use that has not been mitigated. Commissioner Strachan recalled that the Planning Commission previously talked about reviewing the list of conditional uses to see which ones should be removed. Commissioner Thomas thought they should spend time on conditional uses in each zone and evaluate whether or not they should be conditional uses.

Planner Astorga stated that once the General Plan update is completed, they plan to rewrite the entire Land Management Code. Commissioner Thomas requested that the Planning Commission have the opportunity to look at the conditional uses earlier than the LMC re-write. Assistant City Attorney McLean offered to convey their request to the Staff and she would recommend a work session as soon as the General Plan is finished.

The work session was adjourned at 7:30.