PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
MARCH 24, 2010

COMMISSIONERS IN ATTENDANCE:

Chair Charlie Wintzer, Brooke Hontz, Richard Luskin, Julia Pettit, Adam Strachan

EX OFFICIO:

Planning Director, Thomas Eddington; Kirsten Whetstone, Katie Cattan; Planner, Mark Harrington, City Attorney

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REGULAR MEETING - 6:30 p.m.

I. ROLL CALL

Chair Wintzer called the meeting to order at 6:40 p.m. and noted that all Commissioners were present except Commissioner Peek, who was excused.

II ADOPTION OF MINUTES

Chair Wintzer referred to page 20 of the minutes and a comment by Commissioner Peek regarding the size of the siding panels. Chair Wintzer corrected 5' x 18' to read, **5' x 18".**

MOTION: Commissioner Pettit moved to APPROVE the minutes of March 10, 2010 as corrected. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

III. PUBLIC COMMENT

Jim Hier commented on a transportation issue related to the Treasure Hill project. He understood that the City had reviewed the conceptual transportation of the as-built configuration, but he was strongly concerned about construction traffic. Mr. Hier noted that construction traffic was passed over during the conceptual review because the size, scope and scale of the facility was uncertain. In his mind, the overall impacts to the City during the construction period would be greatly worse than it would be once the project is completed. Mr. Hier stated that before anything is finalized on the Treasure Hill project, there should be a request for time-phased construction transportation impacts and the Planning Commission should have the opportunity to review those impacts to see how or if they can be mitigated. Mr. Hier requested that the Planning Commission consider his comments during their deliberations as they move forward. If there is not enough detail to firm up a valid analysis, he suggested that the conditions of approval or findings for denial, whichever action is taken, addresses construction traffic as an element that requires strong mitigation and Planning Commission review.

IV. STAFF & COMMISSIONERS' COMMUNICATIONS/DISCLOSURES

Director Eddington reported that the Staff would be contacting the Commissioners over the next week to schedule times to meet one-on-one with their assigned Staff Planner regarding the General Plan elements.

Planner Katie Cattan reported that Treasure Hill was scheduled and continued to April 14th. Since the April 14th meeting was canceled, a formal continuation would be required at the April 28th meeting. A notice would also be posted in the paper.

Commissioner Pettit stated that the type space in the Staff report was difficult to read. Director Eddington explained that at the request of the public to access the Staff report on the website, it was converted to an OCM-PDF which allows people to cut and paste sections. Unfortunately, the conversion automatically alters the tabbing. Director Eddington stated that the Staff was looking at utilizing another PDF method that could accommodate cut and paste for the public without changing the format.

REGULAR AGENDA/PUBLIC HEARINGS

1. Land Management Code - Amendments to Chapter 1 (General Provisions and Procedures) regarding designation of appeal authority for appeals and call-ups for land in all zones; Chapter 2.3 (HR-2) zoning district regarding CUP and MPD regulations in subzone A; Chapter 6 (Master Planned Developments) regarding calculation of support commercial and meeting space and regulation of MPDs in HR-2 Subzone A; Chapter 10 (Board of Adjustment) regarding process; and Chapter 12 (Planning Commission) regarding appeals and call-ups for land in all zones. Application #PL-09-00874

Planner Kirsten Whetstone reported that the recommended Land Management Code amendments to Chapters 1, 2.3, 6, 10, 11 and 12 were outlined in the Staff report. The Staff requested that the Planning Commission break the amendments into three sections with three separate public hearings and action.

The first section would be Chapter 1, General Provisions and Procedures, and the amendments regarding the appeals process for Planning Commission decisions on conditional use permits and master planned developments.
The second section would be Chapter 2.3 and Chapter 6. The amendments would tie changes to the HR-2 zone with the master planned development changes.

The third section would be Chapters 10, 11 and 12, which are procedural amendments for the Board of Adjustment and Historic Preservation and streamlining the process for minor projects. Amendments related to the Planning Commission and the Board of Adjustment primarily address the appeal period and requires that an appeal must be heard within 45 days.

Chapter 1 - General Provisions and Procedures

Planner Whetstone stated that the proposed language allows the City Council to appoint a hearing officer to hear appeals of Planning Commission decisions. She clarified that this amendment would not impact or change how the Planning Commission processes a conditional use permit or a master planned development as specified in Chapters 1 and 12 of the LMC.

The Staff recommended that the Planning Commission conduct a public, consider input and forward a positive recommendation to the City Council for the proposed amendments to Chapter 1 and outlined in the Staff report and in accordance with the findings of fact found in the draft ordinance.

City Attorney Mark Harrington, explained the thought process behind the proposed amendment. He noted that it was envisioned to be used primarily for the Treasure Hill project. He clarified that the procedure, the standards of review and the scope remain the same for CUPs and MPDs. The only change is that an individual who would be selected by the City Council, would hear the appeal instead of the Council. Mr. Harrington stated that the biggest impact of this amendment is the public accountability of the City Council, and the Staff believes this change would allow the City Council to be more accountable for their decision.

City Attorney Harrington explained that under the current process, if someone approaches a Council member and tries to engage him or her in a conversation regarding alternatives to this project, the Council member is required to appropriately stop the conversation regardless of the input, because the matter could potentially come up in appeal. Mr. Harrington stated that the amendment removes that barrier to engage the City in a more proactive role. If the City Council was to hear the appeal, they would need to remain completely objective and free from prior participation in the project. The amendment would free up the City Council to set aside the appeal and judge limitations and engage politically in all things that may be on the table.

City Attorney Harrington stated that a hearing officer would cure the appearance of fairness in the due process and insures objectivity with an end result, without sidetracking any ability from the public to fully participate and engage in the process. He noted that the City Council would still retain the power to call up an appeal under the Code as written.

City Attorney Harrington stated that in conjunction with the General Plan and what was previously heard in terms of the redevelopment authority, there is a limited opportunity to explore alternatives of both third parties and the City's own resources, and possibly float another bond. They may not have this opportunity two or three years from now. Mr. Harrington felt this was a good window for getting the body politic more involved in alternatives without jeopardizing the fair due process that the applicant and the neighbors are entitled to.

City Attorney Harrington believed this was a potential solution that was not predicated on any end result. It is literally an enabling legislation to open a new process to begin a dialogue if requested by the applicant.

City Attorney Harrington reported that he had received formal correspondence an hour earlier from the Sweeney's attorneys and that correspondence was distributed to the Planning Commission. He noted that the attorneys have expressed concerns that can primarily be address through language

clarification. These same concerns have been expressed by some Commissioners and the public regarding qualifications of the individual and clarification that the process would not conflict with Board of Adjustment language regarding City projects. Mr. Harrington emphasized that the Board of Adjustment would not be eligible to be appointed as the hearing officer under this amendment.

City Attorney Harrington believed most of the issues could be addressed by incorporating more specific language. He stated that in most enabling statutes that were researched in other cities and states, the criteria was generally expertise and has a preference for legal training and/or planning training. These are fairly broad and gives the City Council a broad discretion in who to appoint. Primary qualifications would be experience with land use matters and neutrality. It could not be a City board or employee or appointed official. Mr. was confident that the concerns could be codified in language that would be added to the amendment if it is forwarded to the City Council.

Commissioner Pettit understood that the intent is to use this in the context of the Sweeney project because under the current Code language the City Council cannot entertain discussion due to pending administrative action that could go up on appeal. She noted that the amendment as currently written talks about the selection or appointment of the hearing officer occurring upon appeal. Commissioner Pettit asked about the procedure for making it clear that the distinction would be made earlier rather than later, since no decision has been rendered and an appeal is not pending.

City Attorney Harrington explained that if the Planning Commission forwards a recommendation, they would request that the City Council make that intent and declaration at the time of action, should the Council decide to take action. To be consistent with the amendment, the City Council would have to make it a formal vote at the time an appeal is made.

Commissioner Luskin questioned how the procedure would work with an independent hearing officer. He noted that language in the description of the implementation says that public input would be discretionary. Commissioner Luskin did not think it was appropriate to make public input discretionary. Public input is an important part of the process and he thought it should be incorporated into the enabling language.

City Attorney Harrington explained that the procedure would be the same as it is now before the City Council. Currently, an appeal to City Council does not de facto include a public hearing. The appeal is limited to the parties who appeal, unless the Council votes to enlarge the scope to allow public input. That is the process under current Code for any appeal and it would remain the same. The City Council would still have the ability to allow public input at the time the appeal is referred to the hearing office. Mr. Harrington offered to further codify the language to say that public input would be allowed if the Planning Commission preferred. However, if that change is made to the language, he recommended including it for all appeals to keep the process consistent for all projects.

City Attorney Harrington stated that the reason for not having automatic public hearings as part of the process is to focus the appeal and the burden to sustain the Planning Commission's decision, and limit the scope at the next level to only the issue being appealed. He noted that an appeal is not a complete re-hearing of the application.

Commissioner Luskin asked if a public hearing would be part of the review process at the Planning Commission level and made part of the record. Mr. Harrington replied that public hearings before the Planning Commission would remain the same.

Commissioner Pettit remarked that this was a procedural uncertainty for her as she tried to put herself in the shoes of the applicant, as well as the shoes of a member of the community who has been actively involved in the process. Hypothetically, if the Planning Commission votes a decision to deny and the applicant appeals to the next level, she wanted to know who would represent the other side of the argument to make sure there is a fair balance of representation to the appeal authority.

City Attorney Harrington stated that this issue is already encountered at the City Council level in terms of who represents the Planning Commission's decision. The Planning Staff is charged with carrying that burden, which is why they encourage Planning Commission representation at those hearings. Mr. Harrington remarked that Commissioner Pettit's question was difficult to answer without knowing the scope of an appeal. A cross appeal is the best way for the neighbors to be represented to insure that they have a place at the appeal table. Mr. Harrington noted that he advises people to follow that procedure whenever he is asked that question.

City Attorney Harrington stated that the Land Management Code currently defines "standing" and that remains unchanged. It includes the City, and the City would have that same right of appeal should a hearing officer make a decision that the City Council did not favor. The City Council or the Staff would have the ability to initiate an appeal to District Court.

Chair Wintzer understood that this Code amendment for a hearing officer would be the process for any future project. City Attorney Harrington replied that this was correct, but it would need to meet the general criteria of findings and it could not be arbitrary. It would have to be attached to a concern related to due process or conflict, which he believes exists with the Treasure Hill project. Chair Wintzer clarified that the City Council would make the decision whether to hear the appeal or hire a hearing officer. Mr. Harrington stated that it would give an applicant the additional ability to request it, but the City Council would ultimately make that decision.

Chair Wintzer wanted to know who would decide whether or not to take public input during the appeal hearing. City Attorney Harrington replied that the City Council could make that decision by majority vote when they refer it to the hearing office. The hearing officer would not have the ability to change that decision to a lesser degree, but the hearing officer would have the authority to expand factual issues and take additional testimony.

Chair Wintzer asked if the neighbors rather than the applicant could file the appeal, and whether that would change any recourse. City Attorney Harrington answered no. In terms of the procedure and the standard of review, both are treated the same.
Commissioner Strachan wanted to know what would happen if the City Council engaged in conversations regarding the Sweeney project, and in the end did not appoint a hearing officer. He suggested implementing a mechanism to make sure that if the council members conflict themselves on an application, another entity could make the decision to appoint a hearing officer. City Attorney

Harrington stated that the applicant always has the ability to seek court intervention if they feel they are not getting due process. He noted that some of that was already occurring based on the letters received. Mr. Harrington pointed out that the City disagrees with most comments in the letters. This amendment would alleviate the necessity to formally rebut and engage the comments because it removes the alleged problems from the process. Mr. Harrington believed that currently the City Council could still hear the appeal on Treasure Hill. He would continue to diligently advise the City Council to keep that position, which would limit their ability to engage in solutions.

Commissioner Strachan agreed that at this point in time the City Council could hear the appeal. However, as time moves forward and the City Council operates under the assumption that a hearing officer would be appointed and dictates their statements accordingly, they would have no choice but to appoint a hearing officer. Mr. Harrington stated that this was why the decision should be telegraphed, because the City Council cannot go back once they change their behavior.

Commissioner Strachan asked if the standard of review at the District Court level would be the same as if the District Court would be reviewing the City Council's decision. Mr. Harrington answered yes. It would be arbitrary and capricious.

Commissioner Pettit understood that there were additional language changes to the proposed amendment. City Attorney Harrington stated that they could nail down minimum qualification language. The language would be general but it would cover the points regarding experience. It would specify a priority for residency and a priority for either a legal or planning degree that could be substituted by experience. Mr. Harrington stated that the industry standards for these qualifications are fairly generic but there are minimum thresholds.

Commissioner Pettit asked if the changes would be made and brought back to the Planning Commission for review prior to taking action. She was concerned about the disconnect between the other remaining sections that outline procedures related more to the City Council process. Commissioner Pettit felt it was important to create a new section that outlines the procedures a hearing officer should follow.

City Attorney Harrington pointed out that the changes were non-substantive and it was mostly clarification language. He was confident that the revisions would be made appropriately if the Planning Commission incorporated the direction to Staff to make those changes in forwarding their recommendation to the City Council. The Planning Commission could send a representative to the City Council meeting to make sure the language meets their intent. Given the time frame, Mr. Harrington recommended that the Planning Commission take action this evening if possible.

Commissioner Luskin asked if the formal appeals, the burden of proof, etc, were statutory of if the Planning Commission has some leeway to reconsider. City Attorney Harrington replied that they do have the ability to reconsider. The City currently mirrors what the State Code suggests, but it allows cities to deviate. Mr. Harrington advised that any deviation should be done cautiously. That would be a substantive change as opposed to a procedural change and it would need to be re-noticed.

Commissioner Pettit summarized that the proposed changes to Chapter 1 were contained in the Staff report. Based on comments received from the public and the applicant, City Attorney Harrington was proposing to incorporate within Section 15-1-18(C) qualification language that outlines qualifications for a hearing officer and procedural clarification to the references of "City Council" in subsequent sections. Commissioner Pettit clarified that these revisions would be incorporated before the amendments were forwarded to the City Council.

Chair Wintzer stated that if the Planning Commission chooses to forward this amendment to the City Council, he wanted to know if the Planning Commission could obtain a copy of the language revisions in time to contact the City Council members to discuss these changes. Mr. Harrington answered yes.

Commissioner Hontz referred to the highlighted language on page 55 and asked if they preserve fairness in any appeal or if they have to preserve the appearance of fairness. City Attorney Harrington replied that it gives the City Council the ability at the higher standard, which is the appearance of fairness, to make a decision. Mr. Harrington offered examples to explain the language.

Chair Wintzer opened the public hearing.

Rich Wyman, commended the Planning Commission for raising questions that he had intended to raise this evening. Mr. Wyman stated that he was representing THINC, the Treasure Hill Impact Neighborhood Coalition. THINC generally supports the concept and the idea of a hearing officer, but they did have questions and requests. Mr. Wyman stated that the first request was to make sure that selection of the hearing officer is a transparent process. He wanted to know if there would be pool of candidates and whether the candidates would apply or be pursued. He also requested transparency in negotiations and decision-making.

Mr. Wyman referred to Commissioner Luskin's comment about public input being discretionary, and he emphasized that public input is essential. Mr. Wyman noted that the Treasure Hill process has been ongoing for 20 years. The elected officials live in Park City and personally know the history and the impacts of the proposal. THINC believes the elected officials should be making these decisions. If a hearing officer is appointed, they would want that person to have a personal connection with Park City and the impacts of these proposals.

Mr. Wyman referred to the handout listing the pros and cons of a hearing office that was available from Washington State, and the language regarding the appearance of fairness and impartiality in decision making. He remarked that this could apply to the process in Park City if the hearing officer is the right person and he or she is fair and open-minded. Mr. Wyman noted that there were pros and cons on the handout, and under the cons it said, "these concerns can be addressed by making the hearing examiner's decision a recommendation to the Council." He was unsure how that would work and why, after hearing the appeal, the decision would only be a recommendation to the City Council. Mr. Wyman noted that further language stated, "or providing for an administrative appeal to the legislative body," He understood that to mean that either way, the decision would be appealed to the Courts.

Mr. Harrington explained that the handout was a general paper discussing pros and cons. He clarified that they were not proposing to adopt the same process for Park City. He noted that in some jurisdictions, the Board of Adjustment or the Planning Commission is replaced with a hearing officer, which is why they have the ability for an additional level to the City Council. Park City would not have that ability, therefore, the next level would be the District Court.

Mr. Wyman liked the idea of removing the gag from the City Council so they can be more involved in discussions. However, he felt it was a little unnerving to put a new person and an unknown element into the process. Mr. Wyman stated that currently THINC believes they have a voice in the process. If a hearing officer is appointed, they want to make sure that THINC and the public would still have a voice. He noted that currently the City Council has a gag order, and he assumed that a hearing officer would also have a gag order.

Mr. Harrington clarified that the hearing officer would not be allowed to engage in conversations outside of the appeal hearing.

Carol Kotter, a resident on Woodside, stated that a number of her questions had already been addressed. She still had concerns regarding the fiscal responsibility. With each request for appeal, it is uncertain how long it would take and what would be involved. Ms. Kotter remarked that money would need to be allocated in future budgets to cover those costs. Ms. Kotter requested that the Planning Commission discuss fiscal responsibility.

Kyra Parkhurt expressed her concern that THINC and the community in general would lose their voice in the process. Regarding fiscal responsibility, she pointed out the hours the Planning Commission, the City, and the public have already spent on the Treasure Hill project. Ms. Parkhurst asked if the hearing officer would be able to review all the material that has been presented up to this point or whether it would be an outline prepared by another person.

Ms. Parkhurst supports the LMC amendment because it would give the City Council flexibility in negotiating a buy down in density, transferring density, utilizing land conservancy and taxation aspects in order to compensate the Sweeney family. However,
given the 20 year history of the Treasure Hill project, Ms. Parkhurst questioned whether a hearing officer was in the best position to hear the appeal on this project. She asked if the hearing officer would understand the dramatic changes in the community since the Sweeney MPD was approved. Ms. Parkhurst believed that the City Council members who participate in the community and understand the concerns of the people. They were the ones in the best position to determine whether a project of this magnitude is appropriate for the town. While a hearing officer may insulate the City from potential due process or conflict of interest challenges by the Sweeney family, the community's interest as a whole need to be represented and protected by those elected to preserve the community.

John Stafsholt, a resident at 633 Woodside and a member of THINC, thought this concept came forth rather quickly. He believed additional items need to be added or reconsidered before any decision or vote. Mr. Stafsholt noted that the process for choosing a hearing officer was not

outlined in the Code language. Secondly, because of the required legal background, there would be a limited qualified pool of people to choose from. Mr. Stafsholt thought it was important for the hearing officer to be from Park City, however, the requirements do not specify that the hearing officer must be a County, City, State or U.S. resident. He felt that issue needed to be specified and written in the Code. Mr. Stafsholt pointed out that if the hearing officer is a local resident, it would provide the best perspective for making a decision, but it would limit the qualification pool. Thirdly, Mr. Stafsholt remarked that the concept of a hearing officer gives extreme power to one person. Without specific residency requirements, a hearing officer could come in from anywhere outside of Park City, make a decision that could adversely affect the entire community forever, and then leave. That single person with extreme power also has a higher chance of improper influence and corruption.

Mr. Stafsholt referred to the handout of pros and cons. Listed as pros was the separation of policy or advisory functions from quasi-judicial functions. Mr. Shafsholt did not believe this was a pro. Another pro was time-savings for legislative body and freeing legislatures to focus on legislative policy and other priority issues. Mr. Stafsholt stated that in his opinion, the quasi-judicial functions of the City Council are the priority, which is why the City officials were elected. A third pro was the removal of quasi-judicial decision-making from the political arena. Mr. Stafsholt stated that elected officials get their authority from the people who elect them. He disagreed that removing elected officials from decision-making was a pro.

Mr. Stafsholt noted that a listed con was the additional expense to the County or City of hiring a hearing examiner and Staff. An issue that was not discussed is the fact that a hearing officer may require support staff to research 25 years of history. A de Novo review of multi-year Planning Commissions would be lengthy and expensive, and would generate increased costs to the City and the developer. Mr. Stafsholt commented on lack of accountability to the voters by having an appointed hearing examiner making the decision. As a citizen, he did not vote for elected officials so they could vote to abdicate their decision to someone else.

Mr. Shafsholt noted that City Attorney Harrington and others have portrayed that a main benefit for a hearing officer is freeing up the Mayor and the City Council to proactively negotiate with the developers. Mr. Stafsholt stated that Treasure Hill was used as an example, but based on what is written in the Code, there would not be new negotiations on Treasure Hill. The City Council would still be bound by the current requirements until an appeal is filed and the Council votes on whether or not to hire a hearing officer. Mr. Stafsholt noted that Mr. Harrington presented a different approach for doing that, but he personally had reservations on that issue and the timing.

Mr. Stafsholt remarked that the Staff reports states that the City Council's role in hearing an appeal is limited to determining if the Planning Commission correctly applied the Code. He read from the LMC 15-1-18(I)(3), "City Council review of petitions of appeal shall be limited to consideration of only those matters raised by the petition, unless the Council, by motion, enlarges the scope of the appeal to accept the information on other matters." Mr. Stafsholt believed the Code language went against the Staff report. He further noted that the Code further states that in calling up the matter, the Council may limit the scope of the call-up hearing to certain issues and need not take public

input at the hearing. Mr. Stafsholt stated that while everyone talks about wanting transparency, it is not required by Code, as written.

Steve Swanson, a member of THINC, stated that THINC is a unique organization that represents approximately 400 people and it continues to grow. The core members have their own independent opinions; and what primarily pulls them together is that they all think about the issues. Mr. Swanson did not intend to re-state their position on Treasure Hill this evening because it would not serve this discussion. He outlined THINC's position on a person or panel. The person should be qualified, impartial, and thoughtful. The appointment hearing process and judgement if required should not usurp powers of duly elected officials. He believed Mr. Wyman had sufficiently discussed the issue of transparency. Open door meetings and public participation is critical to the public process. Mr. Swanson stated that THINC would remain diligent and active in the process regardless of the outcome. He believes THINC is uniquely qualified to participate in this way and they are committed to being vigilant and an active participant on behalf of its members and the community as a whole. Mr. Swanson stated that after seeing the Staff presentation during work session and the possibilities of what the City faces in the future, he could and see that going hand in hand with the idea of a transformation or an adjustment in terms of how they address the bigger projects with bigger impacts. Mr. Swanson remarked that density is definitely coming to Park City. He appreciated that the Planning Staff and the Legal Department were attempting to plan for the future, not only for Treasure Hill, but for the entire community. He was certain that Park City would see itself transformed once again.
Chair Wintzer closed the public hearing.

City Attorney Harrington felt the public had made good comments and it was a good illustration of the pros and cons. He stated that this was not a bullet-proof process and the community was being asked to take those risks. He believed it is a better process than currently envisioned and he stands by the Staff recommendation.

Regarding transparency, City Attorney Harrington remarked that the selection process would occur in a similar format to the selection of the outside special counsel. There would be a public RFP and a public appointment by the City Council at a public meeting. Mr. Harrington believed people would see many of the same qualifications built into the language discussed.

Commissioner Pettit asked if the public RFP concept was codified anywhere. City Attorney Harrington replied that it was codified in the City's purchasing policy as they have to use best efforts to spread the word. An RFP is standard practice.

City Attorney Harrington stated that the City Council would be accountable for insuring that a fair individual is appointed. That is key to the process because there would be a consolidation of authority. On the fiscal issue, Mr. Harrington noted that specific funds are not budgeted. However, like the Outside Counsel contract or any other arbitration or mediation that may arise through the ombudsman process or quasi-litigation, the City has a risk management pool and a backup pool that would have ample resources for a hearing officer.

Commissioner Hontz asked about the cost to file an appeal. Mr. Harrington believed the charge was still a $100, although there was some discussion about increasing the fee. He noted that there is a hardship waiver provision.

City Attorney Harrington clarified that when the paper was talking about efficiency, the intent was that if the Council had to invest this degree of time on an appeal, it would obviously impact their workload and public prioritization. There would be a cost of doing business and that would offset this cost. Mr. Harrington felt that efficiency was a lesser issue and that the City Council's time would be better spent being proactive and trying to engage the applicant in solutions. Under the current process, the City Council cannot do anything with respect to the Treasure Hill project because of the appeal potential.

Mr. Harrington stated that for the sake of the public process, the City Council should make a decision on whether or not to hire a hearing officer before any appeal is filed. He was willing to add that language if necessary, but he was not concerned about it from a challenge perspective.

City Attorney Harrington commented on the importance of separating accountability from political influence. A mis-perception is that people feel they can politically influence the City Council on this decision. He explained that per Code, the Council's decision must be based on the record; not by political influence. Mr. Harrington pointed out that this was a subtle distinction but an important one. Mr. Harrington agreed with Mr. Stafsholt regarding the power of one person making a decision. However, in terms of expertise and the complicated nature of the decision, the argument could be made that it is better to have that round of professional review, rather than re-educate a lay person body of five or six individuals. Mr. Harrington remarked that there are pros and cons and all are great arguments. The Treasure Hill process requires hard decisions, but it has brought out the best in the community in terms of public input. He was confident that public input would continue throughout the process.

City Attorney Harrington reiterated that overall, hiring a hearing officer would allow the City Council to be more engaged publicly, and the community could be more engaged and less re-active to the developer's application.

Commissioner Pettit asked if there would be a residency element to the qualifications. City Attorney Harrington recommended that residency of the City should be labeled as a high priority, but it should not be a dis-qualifier.

Commissioner Pettit wanted to know what would be the record the hearing officer would have on appeal. Mr. Harrington replied that it would be the same as City Council. The hearing officer would be required to look at materials and documents. Commissioner Pettit clarified that "record" would include minutes of all Planning Commission meetings, including public comments and anything that has been provided in writing from the public, Staff reports, and any other material or documents that would constitute the record that could be brought up on appeal to a hearing officer. She understood that the amount of information reviewed would depend on the scope of the appeal. Mr. Harrington replied that this was correct.

Chair Wintzer noted that the role of the Planning Commission is to forward a recommendation to the City Council, but the vote belongs to the City Council. Chair Wintzer stated that while all the comments and questions during the public hearing were valid, budget and fiscal questions were under the purview of the City Council and out of the realm of the Planning Commission. He encouraged the public to ask these same questions at the City Council level. Chair Wintzer agreed with the concerns that were expressed this evening and he thought the City Council should hear it from the public so they understand that it is important.

Chair Wintzer believed this was an opportunity to begin negotiations. He has personally found it frustrating to have ideas and suggestions for Treasure Hill that he cannot discuss, and he assumed the City Council and the public had the same frustrations. Chair Wintzer stated that this would give everyone the opportunity to talk about it.

Chair Wintzer encouraged the public to voice their comments to the City Council. He suggested the possibility that the City Council could add their own language regarding the process for hiring a hearing officer.

Commissioner Luskin could see some advantages for having an independent hearing officer. Even if the hearing officer was a resident, he or she would not have been involved in the process as closely as the Planning Commission. If the decision is made to use an independent officer, it is important to coordinate with the standard of proof. If the appeal is reviewed de novo and for error, the standards are low. Commissioner Luskin stated that in deference to the time and effort that the Planning Commission has put into the Treasure Hill project, he requested that they raise the burden of proof that a hearing officer would go through. He pointed out that the same standards should also apply to future appeals beyond Treasure Hill. Commissioner Luskin personally felt that raising the standard of proof would make this process that has been ongoing for 20+ years more meaningful.

City Attorney Harrington stated that Commissioner Luskin's suggestion would require substantively changing the Code provision. The Sweeney application is already vested in substantive matters in the current Code; and therefore, the revision could not be applied to their application. Mr. Harrington noted that the proposed amendment is only a procedural change, which is why it can be done in the middle of the process. He would need to research whether a substantive Code change as suggested by Commissioner Luskin would be triggered with the Sweeney vesting. He assumed it would, since the applicant has the right to a particular standard of review currently in the Code.

Commissioner Pettit stated that she was personally conflicted. She understood the desire and the need to create more flexibility, and she agreed that the City Council cannot wear too many hats at the same time and still be effectively flexible. Commissioner Pettit could think of many instances where it would be desirable to take the burden off the City Council in terms of the "appeal hat" and allow them to wear the hat that would do the most pro-active good, given the fact that the standard of review in a quasi-judicial appeal process is very limited. From a legislative perspective and other ways the City Council functions as a body, Commissioner Pettit believes the Council members have a greater ability to guide the community and find solutions that fit the community vision of who they are and what they want to be. However, public comment also resonated with her in terms of

elected officials being outside of the accountability mode and a decision by one person versus a body. Commissioner Pettit stated that as she weighs the benefits verus the potential cons, she favored the change and the process. However, she wanted the procedure tightened up and clarified. Commissioner Pettit suggested that they give more thought to the standing to appeal and the timing, and how the public can become more involved in the process. She pointed out that someone may not disagree with a decision that might be rendered, so they would not be appealing a decision, but they would like a place at the table to intervene and participate. Commissioner Pettit felt it was important to think about how they can give people an opportunity to participate and what would trigger that ability.

Commissioner Strachan echoed Commissioner Pettit's sentiments. Overall, he thought the pros outweighed the cons. Commission Strachan pointed out that the residency requirement could go both ways. He assumed the Sweeney's would dispute their due process in the procedure, and if the hearing officer is a resident of Park City, they could likely make the accusation that the resident was predisposed to denial of the project. Commissioner Strachan was not convinced that a residency requirement was important as it appears. He felt it was more important to maintain the appearance of fairness throughout. The appearance of fairness is best maintained by an impartial selection process where the City Council picks the person without any one determinative criteria, such as a residency requirement. Commissioner Strachan agreed that there should be some criteria for selection. There should be an RFP process and that process should be according to criteria. He thought the selection process should be better specified in the language. He felt the wording in the Code amendment as written was too vague.

Commissioner Strachan did not believe the recommendation by the hearing officer should go back to the City Council. Once the hearing officer has made a decision, it should go to the District Court. Sending it to the City Council puts the Council in a conflicted position.

In terms of burden of proof, Commissioner Strachan was certain it would go to the District Court, and that would be an arbitrary and capricious review. He noted that the Court would have the full record before them consisting of all Planning Commission documents, Staff reports, public comment, minutes, etc. Commissioner Strachan did not think the standard of review of burden of proof at the hearing officer level was that significant. He felt it was more about the District Courts standard of review and the record that would be reviewed at that level. As long as the hearing officer cannot constrict the scope of the record that the District Court can review, it should not be a problem. Commissioner Strachan stated that he was prepared to vote for the amendment with the caveat that the selection process be more specific.

Chair Wintzer asked if the Planning Commission preferred to see the revised language before voting, or if they were comfortable letting the City Attorney draft the language before sending it to the City Council.

Commissioner Luskin understood Commissioner Strachan's point regarding the residency issue, but he disagreed. He stated that a lot of issues could be challenged and being close to these issues does not necessarily mean biased. Commissioner Luskin believed that someone close to

the issues would have a better context to interpret the testimony and documents. He still thought a residency requirement was important.

Chair Wintzer asked about the other requirements besides residency. City Attorney Harrington stated that typically in choosing an administrative law judge or a hearing officer, there is a basic minimum qualification of experience in conducting hearings and some type of professional competency as a minimum threshold. It would be someone who has objectivity in terms of neutrality and no conflicts with the City or the applicant. Mr. Harrington explained that typically there is a priority list in terms of priority qualifications, similar to a job description. The qualifications could include residency, law degree, planning degree, engineering degree, or possibly supplemented by equal experience. Based on comments by the public and the Planning Commission, Mr. Harrington believed everyone was in agreement with the Staff's perspective that the success lives and dies with the City Council's ability to choose a qualified individual.

Chair Wintzer thought it would be hard to find someone with those qualifications who lives in Park City and is not conflicted in some way. He was concerned that if residency was a requirement, they would not be able to find a qualified individual. Chair Wintzer was not comfortable with that limitation.

Commissioner Pettit understood the concern about a resident of Park City being too limiting, but she cautioned them about underestimating how connected the County residents are to Park City and to Old Town. She was reminded during the visioning process that people outside of Park City feel that they are a part of this community and have that connection.

Chair Wintzer asked Commissioner Pettit if she was comfortable having a hearing officer from the City or the County, or if she was suggesting that it should be someone from the City or the County as a priority.

Commissioner Strachan suggested a series of criteria that is not determinative, similar to the CUP criteria. Commissioner Pettit asked if criteria can be weighted in the RFP process. City Attorney Harrington answered yes. Commissioner Pettit suggested that if someone satisfies one criteria, they would be weighted heavier for the rest of the criteria. Chair Wintzer noted that weighting is part of the process for construction RFPs.

Commissioner Pettit expressed her preference to review the revised language before the Planning Commission takes action. Director Eddington noted that the Planning Commission had eliminated the first meeting in April and was not scheduled to meet again until April 28th. He asked if they wanted to re-instate the April 14th meeting to complete this LMC process.

Chair Wintzer asked if the City Attorney could draft the language this evening while the Planning Commission continued with the remaining LMC amendments. City Attorney Harrington stated that he could at least do bullet points so the Planning Commission could make sure all their comments and concerns were included. The Planning Commission concurred with that approach and requested that this item be left open for further discussion when Mr. Harrington returns with the language.

Commissioner Strachan asked if the criteria should be weighted. Mr. Harrington understood that he was given direction to codify a transparent, public RFP selection process that should include a prioritization of residency. The City Council would determine what that should be.

Chair Wintzer clarified that when the City Council makes the decision to hire a hearing officer, it would be advertised as a public meeting and the public would have the opportunity at that time to make comment and express their preference for or against a hearing officer. Mr. Harrington replied that this was correct.

City Attorney Harrington left the meeting to draft additional language.

Chapter 2.3 and Chapter 6

Planner Whetstone noted that Chapter 2.3 addressed the HR-2 zone and Chapter 6 was the Master plan regulations. She reviewed the summary of Planning Commission direction from the February 24, 2010 meeting that was outlined on page 44 the Staff report.

Planner Whetstone stated that the HR-2 zone is a residential district on the east side of Park Avenue from Heber Avenue to Third Street. It is a unique zone that backs to the HCB District. She noted that the Planning Commission has reviewed these amendments for Chapter 2.3 and Chapter 6 on several occasions. Previous discussions occurred on June 11, 2008, September 23, 2009, November 11, 2009 and again on January 20, 2010. A neighborhood meeting was held in October 2009. Planner Whetstone stated the most recent public hearing was held on February 24, 2010 and the minutes from that meeting were included in the Staff report.

Planner Whetstone noted that the outline on pages 44 and 45 of the Staff report were the issues discussed by the Planning Commission in February and their request to make amendments to the language. As suggested by Chair Wintzer, the page numbers with revisions were bolded in the outline so the Planning Commission could refer to an exact page in the exhibits to identify the changes. She pointed out that current changes since the last meeting were highlighted in yellow.

Planner Whetstone distributed a handout to the Planning Commission, which contained additional Staff recommended changes based on input she received from a citizen the day before. Those four changes were highlighted on page 3 of the handout under Section 15-2.3. The changes were minor, but the Staff agreed that it helped to clarify the purpose and the intent of the HR-2 zone and speak to the challenges and uniqueness of the zone.
Planner Whetstone noted that two revisions were in the purpose statements, one was under the conditional use permit review and replaces “buildings” with “structures” for consistency. The last revision was under the steep slope review. Planner Whetstone explained that the Staff had not made changes to this section. However, to be consistent with the changes that were recommended on February 24th regarding compatibility with the historic character of the surrounding neighborhood; the language in 15-2.3-7 was revised to read, “between the proposed structure and the historic character of the neighborhood’s existing residential structures.”

The Staff requested that the Planning Commission incorporate the four additional changes with all other amendments that would be forwarded to the City Council.

Planner Whetstone stated that the first page of the handout was presented at the request of Chair Wintzer and pertained to Chapter 6. The language was a better clarification of the differences between existing and the proposed language for the support commercial and meeting space. This would not pertain to the HR-2 zone. It was the master planned development language on the 5% meeting space and 5% support commercial. The original paragraph was condensed into simple language. Planner Whetstone noted that the actual changes were highlighted on page 98 of the Staff report.

Based on Planning Commission discussion at the February 24th meeting and input received that day, the Staff recommended changes that were highlighted on page 2 of the handout. She noted that "back of house uses" was removed from the list of back of house uses because it was redundant. However, it was added back in to say "residential accessory uses including typical back of house uses and facilities...." Further language described those uses.

The Staff recommended that the Planning Commission incorporate the changes on page 2 of the handout with all other amendments that would be forwarded to the City Council.
Planner Whetstone noted that the Planning Commission had discussed these back of house uses as contributing to the massing of projects. In addition, they wanted to see a restriction or limitation in terms of efficiency to achieve the most efficient use of the buildings. Back of house uses should not be used as an excuse to expand a building that could later b used for other things. Planner Whetstone stated that the Staff was researching that particular issue to determine the percentage of floor area allocated for back of house uses.

Chair Wintzer pointed out that what happens at the Montage in terms of efficiency is less bothersome than what happens in Old Town, where mass and scale are factors. Planner Whetstone clarified that it was complicated and the Staff was still looking to define a number or formula. The Staff would come back to the Planning Commission with appropriate language.

Planner Cattan stated that she is currently going through condominium plats and she wanted to discuss which ones she was using to calculate those numbers. They included the Sky Lodge, the Summit Watch and Marriott Mountainside in Old Town. She also intended to look at the St. Regis, the Montage and Stein Eriksen. Director Eddington suggested the Marriott in Prospector for a different perspective. Chair Wintzer suggested that Planner Cattan also look at the Yarrow. He recognized that the Yarrow is old, but it is an established Old Town use that is compatible with Old Town.

Commissioner Hontz stated that Planner Cattan could provide her analysis, but she was also interested in seeing the data in order to adequately discuss different types of products and business plans. Planner Cattan thought a field visit would also be helpful to understand the products.

Planner Whetstone commented on a substantive change that was not highlighted in the Staff report. "Gross floor area" was removed and replaced with the "floor area of the approved residential unit

equivalents." This would apply to both the support commercial and the meeting space because neither requires unit equivalents to be used up because they are truly support to the residents. Planner Whetstone clarified that the language puts into Code what has been done in practice.

Commissioner Pettit noted that the language is worded so that it may not exceed 5%. Therefore, if in the analysis of the complete MPD a determination was made from a compatibility standard that it needed to be less than 5%, there would be flexibility for change. She clarified that 5% is not a given, but it can be as high as 5% depending on the rest of the project. Planner Whetstone replied that this was correct.

The Staff recommended that the Planning Commission conduct a public hearing, consider any input, and consider forwarding a positive recommendation to the City Council on the proposed amendments as outlined in the Chapter and in the handout provided, based on the findings outlined in the Staff report and in the draft ordinance.

Chair Wintzer opened the public hearing on Chapters 2.3 and Chapter 6 of the LMC.

There was no comment.

Chair Wintzer closed the public hearing.

Commissioner Pettit noted that one draft ordinance was attached to the Staff Report. If the Planning Commission made a motion to forward a positive recommendation as to Chapters 2.3 and 6, she wanted to know how that would be broken out with respect to the attached ordinance.

Planner Whetstone stated that the Planning Commission could amend the ordinance to remove the references to Chapter 1 in this particular motion. Director Eddington noted that the handout did not contain any references to Chapter 1. He suggested that the Planning Commission recommend language for Chapters 2.3 and 6 as currently outlined in the Staff report, as well as the supplemented provided this evening.

Commissioner Petitt pointed out that in addition to Chapter 1, the ordinance references 1 and Chapters 10, 11 and 12, which would be addressed later in the meeting. She was unsure how to apply one ordinance under three separate motions. Chair Wintzer asked if the Planning Commission could vote on the ordinance as a separate motion at the end of the LMC discussion.

After further discussion, the Planning Commission and the Staff concurred on the procedure to vote on the amendments to Chapters 1, 2.3, 6, 10 11, and 12 as one motion at the end of the meeting.

<u>Chapters 10, 11 and 12.</u>

Planner Whetstone noted that the amendments to Chapters 10, 11, and 12 relate to procedural issues for the Board of Adjustment, Historic Preservation Board, and the Planning Commission. The proposed changes were recently reviewed by the Planning Commission February 24th. The changes were outlined on pages 101, 103, 106 and 111 of the Staff report.

Based on discussion and input at the last meeting, the Staff recommended the following changes.

Page 101, under powers and duties for the Board of Adjustment, #4 was revised to read, "appeals and call-ups of final action by Planning Commission for **City development** at the request of the City Council". This revision is a consistent and defined term used in Chapter 1, where the City Council may allow the Board of Adjustment to review an appeal for a City development.

Page 103, under Appeals, Planner Whetstone requested revising the end of the third paragraph to read, "....unless specifically requested by the City Council for **City development.**" Planner Whetstone clarified that this was for city projects only and it was not related to appeals with a hearing officer.

Commissioner Pettit clarified that the new language was synching this Chapter with the powers and the role of the Board of Adjustment with changes to Chapter 1, relative to the appeal process. Planner Whetstone clarified that his was correct.

Planner Whetstone referred to revisions highlighted on pages 106 a107. A tier was created for projects that could essentially go through a more streamlined process. The tier went from non-historic sites and structures to significant structures or landmark structures. She noted that landmark structures are the most restricted. The only items that could be streamlined are roof repairs, replacement of existing windows and doors in their existing or historic locations.

Planner Whetstone commented on the language change for both the Board of Adjustment and the Planning Commission, that appeals must be heard within 45 days.

Commissioner Pettit recalled that the Planning Commission previously directed the Staff to look at solar in the context of the Historic District Design Guidelines and whether that process could be streamlined for things that do not impact or are consistent with the guidelines. Director Eddington stated that the Staff would work with Sustainability and come back with a recommendation. Until then, projects would still go through the full process. Commissioner Pettit clarified that she supported streamlining the process, but she wanted to make that solar was still a consideration. Planner Whetstone noted that the amendments include a clause on similar work. If someone wanted to put solar panels on a shed behind a non-historic structure and it would not have negative impacts, the Planning Director could make the determination that it is a minor project that would not require a full process.

The Staff recommended that the Planning Commission conduct a public hearing and forward a positive recommendation to the City Council for the amendments to Chapter 10, 11 and 12 highlighted in the Staff report, and with the language regarding "City development" as discussed in Chapter 10.

Chair Wintzer opened the public hearing for Chapters 10, 11 and 12 of the LMC.

Doug Stephens asked if he could comment on Chapter 6. Chair Wintzer allowed his comments, since the Planning Commission had not yet voted.

Mr. Stephens referred to Chapter 15-6-2, with regards to the MPD, on page 85 of the Staff report. He noted that there was subsection a, b and c; but he was unclear as to whether someone would qualify for an MPD process under either a, b or c, or if all three were related. From his reading, he understood that you must have a historic structure on the site in order to do an MPD process between the HCB and the HR2 District.

Planner Whetstone read subsection C, and noted that MPDs are allowed in the Historic HR1 and HR2 Zones when combining adjacent HRC or HCB zone parcels, and the property is not part of the original Park City survey.

Mr. Stephens noted that the last line in C(1) states "as part of an allowed MPD. The language then says see criteria above, which refers to D. He pointed out that the criteria for an MPD is two more zoning designations, the property must have a significant historic structure, the MPD must reduce surface parking.

Planner explained the Staff's interpretation of the language.

Commissioner Pettit read subparagraph 1, "HR1 or HR2 zone parcels are combined with adjacent HRC or HCB zoned properties as part of an allowed MPD, see criteria above." She noted that A and B are above and the question was whether there would need to be compliance with all the criteria.

Mr. Stephens suggested that they could strike the language, "see criteria above" to avoid confusion. Director Eddington pointed out that striking the reference to the above criteria would eliminate the requirement that the structure must be on the historic sites inventory. It would also eliminate the criteria in B(1) for two or more zoning designations. If they do that, they would also need to strike B(2). He asked if it would matter if it was limited to Historic Site Inventory Structures.

Commissioner Strachan suggested that they reference the precise criteria they would want incorporated. It could be B(1) or B(2), but not both.

Mr. Stephens commented on new structures on Main Street that he felt should be encouraged for development. He did not think development should be restricted to historic structures. Chair Wintzer could not understand why it would be restricted to historic buildings.

Director Eddington agreed and suggested that they strike B(2) from the language. If that occurred, B(3) would be B(2). Commissioner Hontz suggested that C(1) remain with the exception of striking "see criteria above". "The property includes two or more zoning designations", would be become B(2) and (2) under C would become number (3).
Planner Whetstone clarified that B(2) would be stricken. Under C, "see criteria above" would be stricken. The Commissioners and Staff discussed whether or not to eliminate B(3), "the proposed Master Planned Development includes reduced surface parking".

Mr. Stephens was concerned about the wording of reduced surface parking. A residential lot on Park Avenue already has parking requirements. After further discussion, Director Eddington stated that even if the language was stricken, the Planning Commission would still have the ability under the MPD process and the criteria to reduce parking according to a specific development.

Chair Wintzer suggested that Director Eddington and Planner Whetstone work on drafting the revised language as discussed, while the City Attorney presented his revised language for Chapter 1.

Chair Wintzer closed the public hearing.

City Attorney Mark Harrington provided a handout of the revised changes to the amendment regarding a hearing officer. He noted that he had revised the language in Section1(a), Hearing Officer Qualification, regarding the decision to appoint and the appointment of a hearing officer. He noted that additional language was added further in the text that would give the City Council the ability to make that decision in advance. He had also added language at the bottom of 15-1-18(G-I) under process. Mr. Harrington read the handout aloud as follows:

> 1()(a) Hearing Officer Qualifications. The decision to appoint and the appointment of a Hearing Officer shall be made by the City Council at a duly noticed public meeting after publicly noticed request for qualifications. Qualifications include a weighted priority for the following: Park City or area residency, five years or more of prior experience in an adjudicative position, and/or a legal or planning degree.

Commissioner Luskin questioned the five years or more experience in an adjudicative position. Mr. Harrington replied that the experience could be specified as prior experience as a hearing officer or judicial experience. Commissioner Luskin suggested, “five years or more in an adjudicated position”. City Attorney Harrington was comfortable with that language.

> The Hearing Officer shall have the ability to: 1) conduct quasi-judicial administrative hearings in an orderly, impartial and highly professional manner. 2) Follow complex oral and written arguments and identify key issues of local concern; 3) Master non-legal concepts required to analyze specific situations, render findings and determinations; 4) Absent any conflict of interest, render findings and determinations on cases heard, based on neutral consideration of the issues, sound legal reasoning and good judgment.

Mr. Harrington continued to read the language under (b) Process.

> Any hearing before a Hearing Officer shall be publically noticed and meet all requirements of the Utah Open Meetings Act. The Hearing Officer shall have the same authority and follow the same procedures as designated for the “City Council” in this section 15-1-18(G-I). The City Council may decide to appoint a Hearing Officer for a particular matter at any time an application is pending, but the appointment of the individual shall not occur until an actual appeal is pending.

City Attorney Harrington anticipated that the City Council would tweak the qualifications but he felt it covered the main point. He would look at the issues regarding the standing appeal that the Planning Commission wanted considered. He believed the drafted language captured the gist of the qualification and public representation concerns.

Commissioner Strachan referred to the last sentence under Process, and asked why a hearing officer would not be appointed at the outset. If an appeal is not filed and the hearing officer is not necessary, they could be relieved of their duty. City Attorney Harrington stated that he would do that if this were replacing the current process. The process is cumbersome and he anticipates community tension over the possibility of appointing this individual. Mr. Harrington felt it was in no ones interest to go through the process unless it was needed. If they prematurely go to that forum, it takes away from some of the neutrality and bifurcation of the non-regulatory role and the regulatory role they are trying to achieve in this window of opportunity.

Chair Wintzer pointed out that the qualification for the right person could change during the process. Commissioner Strachan agreed that the right person could change. However, he wanted to know what would hold the City Council to their decision to appoint? Mr. Harrington stated that once the decision is made it cannot be changed. Commissioner Strachan was comfortable with that aspect as long as it was made clear.

Commissioner Pettit was concerned that appointing a hearing officer ahead of time would increase the opportunity for ex parte contact and the issues with the hearing process. She did not favor selecting a hearing officer in advance of an appeal.

Commissioner Luskin asked about the requirements of the Utah Open Meetings Act. City Attorney Harrington replied that the public input section in the current Code would remain the same, but there would be public notice. At worse case scenario, if notice was not received, people could still comment under the Public Input portion of the meeting.

Commissioner Pettit stated that if the Planning Commission rendered a decision to deny an application, and the applicant filed an appeal and used his ability to retain legal counsel to argue the appeal to the appeal authority, she wanted to know how the City would represent itself. She asked if outside counsel has been hired in the past to represent the City in the appeal process. City Attorney Harrington could not recall hiring outside counsel for that level in a Planning appeal. They have hired outside counsel for different appeals in employment matters where there was more of a direct conflict. He noted that nothing prohibits the Planning Commission from requesting that the City Council consider retaining separate counsel to represent them.

Chair Wintzer re-opened the public hearing.

John Stafsholt appreciated the effort by the City Attorney to draft the revised language. Mr. Stafsholt noted that the added language did not codify that a hearing officer would only be appointed after the City Council makes a majority vote during an open meeting.

City Attorney Harrington explained that the reason for adding the phrase at the beginning of (1)(a) was to make it clear that the decision to appoint or the actual appointment need to be public.

Mr. Stafsholt felt the majority vote was important. Mr. Harrington clarified that a majority vote is required and the City Council would not have any other option.

Laura Susser recalled that someone had raised the idea of a "pool of candidates" for the City Council to choose from. She asked if that would still be considered.

Mr. Harrington replied that it would be hard to guarantee a pool, but he tried to address the issue by having a codified requirement for public notice request for qualifications. Therefore, anyone of interest could apply.

Commissioner Pettit understood that the language that references the publicly noticed request for qualification is the RFP process. Mr. Harrington replied that this was correct.
Chair Wintzer closed the public hearing.

Commissioner Strachan requested a change to qualification (1)(a)4, to require that the hearing officer render written findings. City Attorney Harrington pointed out that written findings are specified and required in 15-1-18(G-I). Commissioner Pettit believed that qualification #4 was the criteria that requires the ability to render findings. Commissioner Strachan concurred.

Commissioner Luskin was concerned that the qualification were too narrow, particularly with respect to the requirement of five years or more of prior experience in an adjudicated position and a legal planning degree. He asked if the language should say "and/or a legal planning degree." Mr. Harrington pointed out that the language could say "and/or a legal or planning degree. He noted that the qualifications would be written like a job description. None of the qualifications would be determinant or disqualifying. Commissioner Luskin thought the language should say, "qualifications should include a weighted priority for the following...". Mr. Harrington offered to add that language.

Director Eddington and Planner Cattan returned with revised language for 15-6-2.

Director Eddington stated that he and Planner Cattan read through the language and found that it was necessary to leave in B and C because they discuss slightly different issues. He noted that in 16-6-2(B), HR1 and HR2 were switched for numeric purposes. In B they removed 2 and 3 and revised the last two lines of the paragraph to read, "provide the subject property in proposed MPD includes two or more zoning designations." In C, the language was revised to read, "For sake of consistency with A and B, the master plan development process is allowed in historic residential one and historic residential two zones only when 1) HR1 and HR2 zone parcels are combined with HR, adjacent HRC or HCB zone properties; strike "see criteria above", or 2) the property is not part of the original Park City survey."

The Commissioners were comfortable with revised language.
MOTION: Commissioner Strachan made a motion to forward a positive recommendation to the City Council changes to Chapter 1 of the Land Management Code as amended by the City Attorney;

Chapter 2.3 as amended in the Staff report; Chapter 6, as amended by Staff during the meeting, including the supplement prepared by Staff based on input from a citizen addressing LMC Section 15-2.3-1,7; Chapter 10, as amended, and Chapters 11 and 12. Commissioner Pettit seconded the motion.

There were questions regarding the supplement. Commissioner Strachan clarified that his motion included the amendments to 15-6-2 that were revised during the meeting and the amendments in the supplement. Commissioner Pettit stated that her second also included both documents.

VOTE: The motion passed unanimously.

The Park City Planning Commission meeting adjourned at 9:15 p.m.