

**PARK CITY PLANNING COMMISSION  
WORK SESSION  
January 20, 2010**

PRESENT: Charlie Wintzer, Brooke Hontz, Richard Luskin, Dick Peek, Julia Pettit, Thomas Eddington, Kirsten Whetstone, Polly Samuels McLean

**WORK SESSION ITEMS**

**Legal Training**

Assistant City Attorney, Polly Samuels McLean, reported that the Planning Commission is required to have annual training on the Open and Public Meetings Act. The Planning Commission had their training last year and she would highlight the basics this evening.

Assistant City Attorney McLean stated that she would have training prepared on certain matters to present to the Planning Commission on rare occasions when their meetings are short. She encouraged the Commissioners to email her with legal questions that can be addressed as a work session item or during a break. Ms. McLean stated that she was always available to answer questions one-on-one.

Ms. McLean explained that the spirit of the Open and Public Meetings Act is to act openly, make decisions openly and to deliberate openly. She clarified that "open" means in front of the public in a setting that allows the public the opportunity to hear their deliberations.

In terms of defining a meeting, Ms. McLean stated that a quorum is four Planning Commission members, including the Chair for computation purposes. The language reads, "The majority of the appointed members". Due to the vacant seat left by Evan Russack, the Planning Commission currently has six members and the majority is still four. If they were to lose another member, they would have a majority with three. Ms. McLean explained that no business can be conducted during a meeting unless a quorum is present. That also includes work session.

Chair Wintzer asked if the Planning Commission should dismiss themselves from conducting a meeting if they do not have a quorum. Ms. McLean replied that this was correct.

Ms. McLean remarked that the Chair cannot vote. However, the vice-chair or any Commissioner acting as a Chair, still maintains his or her vote.

Ms. McLean explained that "convening" means a situation where they are all scheduled to be at the same place. Attending a holiday party or coincidentally meeting at a store is not considered a meeting. However, if they attend a function where they might be talking about issues that might come before the Planning Commission, that would be considered a meeting.

Ms. McLean commented on emails and noted that if a Commissioner was sending substantive information to all the Commissioners, that could also be viewed as a meeting and would violate the intent of the Act. She informed the Planning Commission that their emails may be public record under GRAMMA. Therefore, if emails are sent among the Commissioners, those could be discoverable to the public. Ms. McLean encouraged the Planning Commission to keep their communication on substantive matters in front of the public.

Commissioner Pettit asked if the Planning Commission had a record retention policy for email communications and whether they should not delete those emails. Ms. McLean was unsure and offered to check the City's retention schedule regarding emails. She believed it was a one year

time frame. Commissioner Peek suggested that if the Planning Commission was bound by the retention policy, they should be issued email addresses.

Ms. McLean thought that was a good point and offered to look in to it.

Regarding meeting locations, Ms. McLean stated that the Act requires a regularly scheduled meeting at a regularly scheduled meeting location. She noted that the Planning Commission already follows that procedure. Site visits are allowed, as well as emergency circumstances. Ms. McLean commented on electronic meetings and questioned whether the City had adopted an electronic meeting resolution. Commissioner Peek recalled that a resolution had been adopted. Ms. McLean offered to follow up on that issue. If there is not a resolution in place, they would need to have one before an electronic meeting could occur.

Commissioner Pettit recalled that during a previous joint meeting with the City Council and the HPB, an HPB member was unable to attend and requested to participate telephonically. A resolution was passed to allow that member to participate; however, the technology did not work well and there was no cue for when he should speak. Commissioner Pettit remarked that it is not uncommon in other jurisdictions to allow the ability for a member to participate telephonically. She realized that the Planning Commission has changed since the initial discussion, but at that time everyone felt it was important to have the people involved participate personally.

Chair Wintzer recalled concerns about handouts and how the person participating telephonically would not have the benefit of visual information. For that reason, he remembered that most people were not interested in allowing electronic participation. Ms. McLean offered to research the minutes and provide a summary of that discussion. She would also talk to the IT Department to see if there is better technology.

Commissioner Pettit stated that her biggest issue relates to major, substantive matters with significant public comment. The minutes do not reflect the actual sense or feel for the full discussion from all the Commissioners. If a Commissioner cannot attend a meeting but would like to understand an important application, they should have the ability to listen in, even if they cannot make comments themselves. Ms. McLean did not think that allowing someone to listen to the discussion without participating would be considered an electronic meeting. She would look into it further and report back.

Ms. McLean commented on noticing and explained that the City has its own noticing requirements. Under the Open and Public Meetings Act, the only requirement is to notice a meeting 24 hours prior. Following those requirements, the Planning Commission would be able to discuss a last minute item during work session as long as it could be noticed 24 hours before the meeting. Ms. McLean stated that "public comment and open" means that people are entitled to see the process. It does not mean that the public has to participate. For instance, during a work session the public has the right to hear their discussion, but the Planning Commission can decide whether or not they want to take public input.

Ms. McLean remarked that the Chair is in charge of the proceedings and disruptions do not have to be tolerated. The public time belongs to the entire public and it is appropriate for the Chair to keep people on point.

Ms. McLean noted that minutes are required for each meeting. She emphasized that the minutes, under State law, are the official record and represent what happened legally in the meeting. If the minutes are wrong, it is important to make corrections before they are approved. She believed the Planning Commission was diligent about making sure the minutes are correct. Ms. McLean clarified that the Planning Commission could correct something they said that was reflected incorrectly in the minutes; however, it must be something they actually said and not what they wished they had said. She pointed out that if there was ever a discrepancy, it could be checked against the recording.

Regarding emergency meetings, Ms. McLean noted that members are notified as quickly as possible. She stated that there was very little reason for the Planning Commission to have an emergency meeting.

Ms. McLean stated that if for any reason the Open and Public Meetings Act is violated, any action taken in the meeting is voidable. Ms. McLean noted that because Park City wants the community to be involved, it errs on the side of additional noticing or not holding a meeting due to noticing issues.

Commissioner Pettit referred to an email the Commissioners received earlier in the week regarding correspondence between Ron Ivie and David Smith, with Talisker. It was the subject of action that the Planning Commission took during a meeting. She noted that the email was not included in the packet and wondered how it becomes part of the file to be on record. Commissioner Pettit pointed out that the email was not available to the public at the time the Planning Commission made their decision.

Commissioner Peek believed that the intent of the email was to update the Planning Commission regarding a negotiated settlement between the two parties. Ms. McLean offered to find out the specifics of the email and what it means in the context of making it part of the record.

Commissioner Pettit thought it was important to have checks and balances on those types of issues.

### **General Plan Discussion**

In the interest of time, the Planning Commission postponed this discussion.

Director Eddington noted that the intent this week was to review the goals from the previous General Plan and to present the City Council's priority goals. He offered to provide the Planning Commission with the power point package that was to be presented this evening so they would be ready to move forward at the next General Plan meeting on February 24<sup>th</sup>.

The work session was adjourned.