



Board of Directors

Board Meeting Minutes – November 4, 2014

BOARD PRESENT

Dan Fishkin, Chair
Craig Chenoweth, Vice Chair
Ted Schoenborn
Scott Asla
Scott Wallace

STAFF PRESENT

Don Horton, Executive Director
Vanessa DeMoe, Assistant to the Executive Director
Michelle Healy, Strategic Planning & Design Director
Theresa Albert, Human Resources Manager
Jan Taylor, Community Relations Manager
Lindsey Lombard, Finance Director
Brian Hudspeth, Construction Manager
Jim Figurski, Landscape Architect
Aaron Collett, Project Manager
Mark Ellington, Facilities manager

LEGAL COUNSEL Paul Taylor

MEDIA Not in attendance

WORK SESSION

Staff Introductions

Michelle Healey introduced Aaron Collett, the new project manager in the Planning and Development department. She shared that he is a civil engineer, adding a different set of skills to the group. Mr. Collett added that he is a civil and environmental engineer. He gave a brief background of his past projects and work history.

Simpson Pavilion

Public Comment:

Paul Israel – Mr. Israel provided comment on his concerns regarding eliminating the screen from the pavilion project design.

Executive Director, Don Horton asked Paul Taylor, legal counsel, to share what the Oregon Revised Statute (ORS) says about the value engineering process. Mr. Taylor referred to ORS 279, specifically 279C.340 Contract negotiations. Mr. Taylor said that the ORS provides a system to negotiate with the low bidder on value engineering and other options. He said that in recognition that bids may exceed the project costs estimate and to avoid incurring the costs of rebidding, the District is allowed to go to the low bidder and conduct negotiations with regard to value engineering to see if the contract costs can be brought within the estimate for the project. Mr. Taylor said the standard in the statute is that you can conduct the negotiations and agree on a revised scope of work, if the scope is not significantly reduced that it would impact the field of competition for the original bid.

Michelle Healy shared the Simpson Pavilion bid timeline and bid results with the Board. She explained that the low bid had exceeded the project estimate. Ms. Healy stated that after consulting with legal counsel and state law, staff started a value engineering (VE) process with the low bidder, Appolo Inc. She shared several items that were considered in the VE process including lighting, alternative siding materials, landscaping and different methods for ceiling construction. Ms. Healy briefly discussed the VE options not accepted; the ice mat system and the ETFE, the ETFE is the screening around the pavilion. She stated that the VE at this point does not take out the ETFE. Ms. Healy shared a project cost tracking spreadsheet with the Board showing the estimated costs at construction bid, current costs with VE, and costs less the ETFE. She stated that after the VE exercise there is still a cost difference of \$355,433.

The staff and Board discussed options for the ETFE, including taking it out of the contract and evaluating the need after a season of use, leaving it in the contract and use funds from next biennium and installing a partial screen. The Board also discussed the potential for other funding sources, ice condition considerations with and without the screen and specifics of the VE process. Chair Fishkin shared that he believes that if we are spending multi millions of dollars to build, what in part, is an ice facility we should not skimp on something that has a direct impact on the ice. He stated that he understands there are many variables that come in to play regarding the ice quality, those argue for having as much on your side as possible to control the variables and, ultimately, the ice quality. Chair Fishkin stated that we should be delivering the best, most functional facility and safest quality of ice that we can to the public. He stated that he was in favor of finding the money from another source, or postponing the FF & E to next year's budget and not sacrificing the quality of one of the fundamental purposes of what was being built.

Chair Fishkin asked that each Director make a final statement on the issue. Vice Chair Chenoweth explained that the ETFE was not in the original advertisement for the project. He stated that he does support the idea of not adding the ETFE now and evaluating it, possibly adding it at a later time. He said that what we really need to do is deliver the project in a timely manner. Director Asla stated that he agreed with Vice Chair Chenoweth. Director Wallace stated that the ETFE is an important part of delivering a quality product. He said that if the decision is to defer the ETFE, rather than waiting a year to come to a conclusion that the ETFE is needed it should go into another project or initiative to look at how it can be funded and included. He stated that the ETFE is critical to deliver what we said we were going to build; expectations of the ice community are not to have bad ice. He shared his concerns with putting

the community on potentially unsafe ice. Director Schoenborn shared his comments earlier in the discussion. He stated that the facility design was not changing and that the only thing left to take out to responsibility use public funds was the ETFE. He said this would allow for a decision to be made based on experience and real data. He stated that if we need to install the ETFE, we will know after the first year of use; and if it is necessary, perhaps a partner can assist in raising the money.

Public Comment:

John Williams – Mr. Williams provided comment regarding the VE process. He shared his concerns with the process and options he felt should be considered.

REGULAR MEETING

Chair Fishkin called the regular meeting to order at 7:35 p.m.

CONSENT AGENDA

1. Minutes: October 21, 2014, Regular Meeting
2. Resolution Adopting ADA Transition Plan

The agenda briefs and supporting documents for the Consent Calendar can be found at: [http://www.bendparksandrec.org/info/About Us/board meetings/](http://www.bendparksandrec.org/info/About%20Us/board%20meetings/)

Motion

Director Wallace made a motion to approve the Consent Agenda. Director Asla seconded. The motion passed unanimously, 5-0.

BUSINESS SESSION

1. Award Pickleball Court Construction Contract

Ms. Healy shared information on the bid process, project alternates and funding. She stated that bids have been received, staff have conferred with the Pickleball Club and confirmed funding to move forward; at this point there is enough money to move forward with the base bid and Alternate #1, which is the shed. Ms. Healy clarified that staff are recommending moving forward with awarding a contract to Empire Development to build the new pickleball courts and storage shed.

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MOTION

Director Asla made a motion to authorize the Executive Director to award a construction contract for the Pine Nursery Pickleball Phase 2 project with Empire Development and Construction, LLC. in the amount of \$294,941.80 with alternate # 1 for a total contract price of \$318,411.70, and to approve a total project amount not to exceed \$350,253. Vice Chair Chenoweth seconded. The motion passed unanimously, 5-0.

Public Comment:

Werner Zehnder - Mr. Zehnder expressed his support for the project and thanked the Board and staff for their work on the project. He shared Pickleball Club programs and participation statistics. Mr. Zehnder said that many visitors are coming to Bend because of the pickleball courts. He also addressed the Simpson Pavilion and suggested seeking out donors for this project and having a representative to work aggressively at seeking out donors.

Chair Fishkin thanked Mr. Zehnder on behalf of the Board and the District for his incredible personal donation to the project. He said that we commend and appreciate the efforts and financial support of Mr. Zehnder and take to heart the recommendation of seeking out donors.

2. Simpson Pavilion Construction Contract

Public Comment:

John Laherty – Mr. Laherty provided public comment regarding the funding of the project, the ETFE, and providing the best user experience focusing on functionality versus aesthetics.

Ms. Healy said that as discussed in work-session, there is a short-fall in terms of overall funding for the project. She said that the options being considered are to defer the ETFE screening by putting it in another fund or to evaluate the need after a season of use. If it was decided that the ETFE was needed, funding would be sought out from another source. Executive Director Horton stated that another option, shared by Director Wallace [in the work session](#), was to include the ETFE and start fundraising now rather than waiting. Director Wallace reiterated that he does believe that the ETFE needs to be included in what we are building right now.

Executive Director Horton suggested that if the Board moves forward without the ETFE that would be one motion; if the Board would like to consider a second motion to direct staff to work with Bend Ice and others to come up with a funding strategy, that would be a second motion.

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MOTION

Director Schoenborn made a motion to award a construct contract for the Simpson Pavilion to Apollo, Inc. as the apparent low bidder in the amount of \$8,453,002 which includes Alternate #1, and to establish a total construction budget not to exceed \$8,881,352.

Chair Fishkin clarified that Alternate #1 does not include the ETFE screening.

Vice Chair Chenoweth seconded the motion. All in favor, Director Schoenborn, Vice Chair Chenoweth and Director Asla. Those opposed, Chair Fishkin and Director Wallace. The motion passed 3-2.

Executive Director Horton asked for clarification that those opposed were in support of the project, but not in support of the ETFE not being included. Chair Fishkin and Director Wallace confirmed that they did support the project but not the exclusion of the ETFE.

MOTION

Director Wallace made a motion that the Executive Director and staff establish and work with staff, public and non-profit organizations to look at a funding strategy to incorporate the ETFE in to the final product; and direct staff to begin that work in earnest on a parallel track with the construction of the facility; and that if there are cost savings and contingencies that become available throughout the course of the project, those be considered as sources to help finance the inclusion of the ETFE. Director Schoenborn seconded the motion.

The motion passed unanimously, 5-0.

Director Asla made a motion that the same should apply to the sport court if programming opportunities present themselves. Director Schoenborn seconded. All in favor, Director Asla, Director Schoenborn, Vice Chair Chenoweth, Director Wallace. Those opposed, Chair Fishkin. The motion passed, 4-1.

3. Approve Simpson Pavilion Construction Administration, contract amendment

Mr. Figurski stated that with the approval of the contract for construction, additional assistance with construction administration is needed. He said that a scope is being proposed that augments what staff are already doing. Mr. Figurski provided terms of the proposal and how the team will provide assistance, including further review of the VE items. Mr. Hudspeth further clarified the VE process and shared how staff have worked with the contractor to verify the VE items and costs.

The agenda briefs and supporting documents can be found at:

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MOTION

Director Wallace moved to authorize the Executive Director to execute a contract amendment with OPSIS Architecture in the amount of \$212,890 for construction administration and related services for the construction of the Simpson Pavilion and to establish a budget not to exceed \$234,179. Director Asla seconded. The motion passed unanimously, 5-0.

4. Approve Lands Bend Development Agreement

Ms. Healy gave a brief update on the Stone Creek neighborhood park development agreement. She shared a map of the location and tax lot. She gave an update on the transfer from the city, development of the park, and the development agreement. The draft development agreement was provided to the Board. The agreement lays out the roles and responsibility for the developer to construct the neighborhood park in exchange for reimbursement by the District. Reimbursement would occur through credits against

payments for future park system development charges (SDC) improvement fees up to the total amount of “eligible costs” to develop the park. Ms. Lombard explained how the credit system works. She said that the credits have a ten year limit; the developer has ten years to use the SDC credits as needed. Ms. Lombard stated that staff are comfortable with this agreement and agree that it achieves the same end goal.

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MOTION

Vice Chair Chenoweth made a motion to authorize the Executive Director to finalize and execute a Development Agreement for the design and construction of a new Neighborhood Park in the Stone Creek development with Lands Bend Corp. Director Schoenborn seconded. The motion passed unanimously, 5-0.

STAFF REPORTS

Staff reports were provided to the Board as information only. There was no formal presentation or discussion for the Staff Reports.

EXECUTIVE DIRECTOR’S REPORT

Executive Director Horton shared dates for upcoming community meetings and gave a brief update on the Mirror Pond Ad Hoc Committee. He shared that the Board will be asked to consider a proposal by the city on affordable housing and that we are waiting to hear from the city to schedule them to come to a Board meeting. Executive Director Horton briefly discussed the meeting minutes procedure with the Board.

BOARD MEETINGS CALENDAR REVIEW

Director Asla reported that he will not be in attendance at the November 18 meeting.

GOOD OF THE ORDER

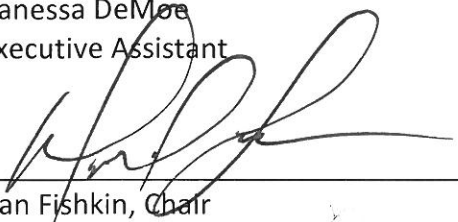
Chair Fishkin said that he attended a presentation on the potential for the Cascadia subduction earthquake. He recommended that Planning & Development staff meet with the Natural Hazard Mitigation Plan Steering Committee. Chair Fishkin said he will follow up directly with staff to coordinate a meeting.

ADJOURN – The regular meeting of the Bend Park and Recreation District Board of Directors adjourned at 8:45 p.m.

EXECUTIVE SESSION - The Board met in Executive Session upon adjournment of the Regular Meeting for the purpose of consultation with counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed, pursuant to ORS 192.660(2)(h). The Executive Session was closed to the public.

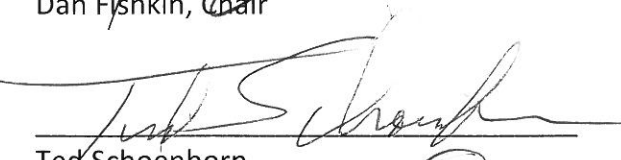
Prepared by,

Vanessa DeMora
Executive Assistant



Dan Fishkin, Chair

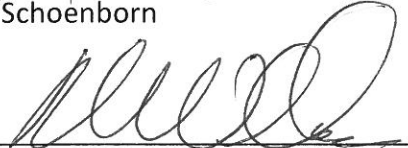
Craig Chenoweth, Vice-Chair



Ted Schoenborn



Scott Asla



Scott Wallace