



**Bend Park &
Recreation**
DISTRICT

Board of Directors

September 17, 2019

District Office Building | 799 SW Columbia | Bend, Oregon



5:30 p.m. MEETING CONVENED

BOARD PRESENT

Ted Schoenborn, Chair
Nathan Hovekamp, Vice Chair
Jason Kropf
Ariel Mendez

BOARD ABSENT

Lauren Sprang

STAFF PRESENT

Don Horton, Executive Director
Michelle Healy, Deputy Executive Director
Julie Brown, Manager of Communications and Community Relations
Lindsey Lombard, Administrative Services Director
Matt Mercer, Director of Recreation
Sheila Reed, Executive Assistant
Brian Hudspeth, Development Manager
Michael Egging, Recreation Analyst
Joel Lee, Park Steward
Sue Boettner, Recreation Manager
Sarah Bodo, Park Planner

MEDIA

Brenna Visser, The Bulletin
Isaac Biehl, the Source

STAFF INTRODUCTIONS

Alaine Nozawa, Human Resources Assistant
Natalie Broadus-Beard, Human Resources Specialist

WORK SESSION

1. **Bicycle Low Stress Network Update – Robin Lewis, City of Bend**

Ms. Lewis, transportation engineer for the City of Bend, spoke about the work that is planned to connect the community with bike and pedestrian networks. She showed maps that have been created to show the integration for continuity and coverage, concentrating on walking and biking areas and filling in missing sidewalks to create these links. The city's plan also includes creating comfortable routes by linking to district trails, enhancing the desirability and safety of the routes.

Ms. Lewis explained the proposed low stress network (LSN) which will consist of neighborhood greenways, paths or protected bikeways, buffered bikeways and basic bike lanes. She said that public agencies will develop, own and operate the majority of the system, but the network will also include some private development. Ms. Lewis spoke about the overlapping needs of the city and the district and provided examples of how these are currently and can be further combined to create the LSN.

Next, Ms. Lewis talked about the importance of coordinating with the district on wayfinding, signage and identification. She said the agencies should work together to create a network that the community can understand because so many trails will be combined to create the network. Winter maintenance can be an area for collaboration. She mentioned that the district already removes snow from almost 34 miles of trail, and there may be opportunities to work together in some areas.

The board asked questions about the prioritization of trails. Ms. Lewis said the east/west connectivity and core areas are the priorities. The southeast is also experiencing a lot of growth and will be looked at as well. This is a long-term project with completion anticipated in 2040. The board members expressed their support for the trail plan and their desire for the agencies to work together.

Executive Director Horton mentioned the latest collaboration with the city at Columbia Park. He said the sidewalk at the park has been completed in partnership with the city. This project was completed very quickly. David Abbas from the city was in the audience and remarked that he looks forward to more projects like this.

2. Recreation Summer Highlights and Fall Preview – *Matt Mercer and Michael Egging*

Mr. Egging gave a summary of the 2019 summer programs, he said the district offered over 1280 opportunities this summer for youth and adults. Mr. Egging showed a slide of the most important activities for the community based on a statistically valid recreation survey indicating that youth activities were the highest priorities. The number of activities offered were slightly down this summer; however, days offered, unique participants and visits were slightly up.

Mr. Egging spoke about the various opportunities for registered programs, including:

- All day camps (primarily childcare)
 - PAC
 - Operation Recreation
- Therapeutic Recreation
- Outreach Programs
 - Ariel Glen
 - Discover the Outdoors
 - Days of Play (not a registered program)
- Enrichment Camps
 - Sports
 - Outdoors
 - Art
 - STEM

- Juniper Swim and Fitness
 - Youth swim lessons
 - Juniper Swim League

He added that with registered programs, unique enrollments for summer showed participation of about 36 percent of all kids in Bend. In the 5-9-year-old age group, unique enrollments represent about 62 percent of the population in that age group.

Mr. Egging said drop in activities at Juniper Swim and Fitness visits and activities have remained at about the same levels as the past three years, which may indicate that the facility has reached its capacity. The Senior Center showed a decline in participation, but had reduced programming and was in a temporary facility. The Pavilion showed an increase in activity by adding roller skating as a new program.

Mr. Mercer spoke about some of the outreach programs. In an effort to reach kids that could qualify for scholarships, the district offered programming to Ariel Glen, an apartment complex, and partnered with Housing Works to bring summer programs to kids. This was a free program to the neighborhood. This was a great experience and Mr. Mercer said the partnership will be offered again next summer.

Discover the Outdoors is another program offered. Staff picked up kids and took them to week long outdoor programs. The program was offered last year; this year the district doubled the amount of kids that could participate. Staffed worked with FAN advocates to identify children that would qualify for this program.

The board asked why the scholarship funds are not always used. Mr. Mercer explained that the partnerships that the district has share some of the expense and less of the district funds are needed. The partnerships allow the district to reach more kids and spend less. The strong economy may also be a factor. He said a thorough report will be brought to the board to discuss scholarship funding ahead of the budget in the spring.

Mr. Egging said that staff is reporting record fall sports participation in the following fall programs: soccer, flag football, tackle football, volleyball and tennis. This increase results in a need for more volunteer coaches and officials.

Mr. Mercer shared the progress made on the expansion of Kids INC, the afterschool care program. Program capacity went from 700 to 1200, the change to the school schedule eliminated the need for the morning program, but expanded the need for afterschool care. Bend LaPine Schools (BLS) worked hard to provide more space for the district to operate the program. Program capacity went from 700 last year to 1200 this year. Twelve of the 14 Kids INC sites are at capacity and the district was able to add a new site this year. The waitlist is about the same this year as last year even with the expansion, so far 280 kids have been removed from the waitlist and into open spaces since enrollment started.

Staffing for Kids INC has been very challenging:

- 50 staff positions were required last year; 70 positions needed this year
- 40 returning staff
- 35 new hires

- Anticipating that staff may have to do 100 hires because of turn over
- Strategies:
 - Benefits pilot program
 - Bonus opportunities (for non-benefited staff)
 - Job fairs (hired 15-20)
 - School resources

The new strategies have helped with the attraction of new hires, staff will see how well the strategies work for retention. The district took a big risk with registering so many more kids because of the unknowns of staffing. Mr. Mercer said the district is often asked why more kids cannot be added to the program. He explained that there are limitations of space at the schools. The program requires common space, and there is only so much available. He commented that BLS has done their part to accommodate as many kids as possible. Quality and safety are the other reasons, there is a limit to the number of kids that staff can handle and ensure the quality and safety of the children in their care.

The board offered up ideas about families sharing a spot, if both only needed part-time care on opposite days and asked about off-site opportunities. Mr. Mercer responded that the vast majority of kids need every day care, but he could be open to the shared idea. He also said that off-site options were explored for Highland Elementary, which has the biggest waitlist, but lack of transportation prevented this as an option.

The board acknowledged the work that staff has done to provide the extra care for kids and scholarships.

3. Legislative Update – *Don Horton*

Executive Director Horton handed out a summary of the bills that he said were most relevant to the district. This was a condensed version of the legislative report in the board packet. The handout is attached to the minutes. Executive Director Horton explained that the district contracted with lobbyist Erik Kancler, and an attorney, Katie Tank, to stay informed of introduced legislation and bills that were passed. Executive Director Horton explained each bill in the handout in his discussion.

A board member asked about a section in Erik Kancler's report in regard to Mirror Pond. This began a discussion about the Mirror Pond dredging project. For the benefit of the two new district board members, Executive Director Horton provided background of the project and explained the signed resolution between the district and the city and forthcoming MOU that will be created as a result of the resolution. More questions were asked about progress since June, if the fish ladder was tied to the dredge and if there will be more public process. Executive Director Horton indicated that the MOU is not likely to be accomplished until spring. He explained that the fish ladder is not tied to the dredge, but is tied to the process and stated that he thinks care should be taken with the fish ladder so that the project remains a fish ladder and not a recreational facility. Executive Director Horton further commented that there has been a lot of public process in this project, and all decisions have been made in public meetings with the district and city council. He added that Mirror Pond Solutions (MPS) would like to see the dredge happen next summer, they have all the permits and have committed to finding the rest of the funding for the project.

Executive Director explained the failed attempts by MPS to purchase the dam and addressed comments that have been made about the viability of the dam in the community. PacifiCorp owns the dam and has stated that they intend to keep the dam in place.

The board expressed interest in staying engaged on this topic.

EXECUTIVE DIRECTORS REPORT

- **Easements for Mirror Pond:** Executive Director Horton said that the district has to get easements from six landowners to continue the trail at Mirror Pond. The district now has commitment from all six landowners. The district has spent over a year to get these easements and some had to be purchased. He commented that the district will have spent about \$100,000 to create 200-300 yards of trail, demonstrating how difficult this can be.
- **Haul Road Trail Easements:** This district has been negotiating with the owners of Entrada Lodge for 15 years and the easement is finally in place. This will extend the Haul Road Trail.
- **Update on the decision for fees:** The city has decided to not charge the district the 1.5 percent fee for the SDC fees that will be waived for affordable housing this year.
- **Simpson/Columbia roundabout:** The city contacted the district about sharing the costs of putting in a roundabout at Columbia and Simpson. The district is obligated to put in the roundabout with any further development to the land owned by the district. The city asked the district and OSU to share the costs and put it in now. The district committed to a third of the estimated cost that was provided by the city and budgeted \$700,000. More recent cost estimates show an increase in price and the district may need to contribute more, resulting in the need to think about where the additional money will come from.
- **Meeting with Council on Aging:** They have purchased the old Bend Community Center and will be doing a fundraising campaign. Executive Director Horton said he does not see this agency as competition, but complimentary to the what the district offers. He said some programs may overlap with district programs, but it offers a choice to the community and he said the district should support them.
- **Tour of facilities:** Executive Director Horton asked the board if they would be interested in a tour of some of the facilities. The indicated that they were interested and asked for a list of suggestions for facilities and dates.
- **Policy Committee:** This committee meets once a year to codify policies and need two board members to serve. Directors Kropf and Mendez volunteered.

PROJECT REPORT

BOARD MEETINGS CALENDAR REVIEW

GOOD OF THE ORDER

Director Mendez shared that he and Directors Kropf and Schoenborn attended the Welcoming Week event last night. He said this event is gaining momentum and they have great events happening all week. He mentioned that he had some good conversations and it is worth the effort to engage in these types of events.

ADJOURN: 9:37pm

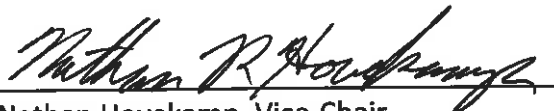
Prepared by,
Sheila Reed

Executive Assistant

Ted Schoenborn, Chair

Lauren Sprang

Ariel Mendez


Nathan Hovekamp, Vice-Chair


Jason Kropf

Legislative Report

Bend Park and Recreation District Board of Directors

August 20, 2019

HB 2005 – Paid Family & Medical Leave – Under Oregon, BPRD currently provides family medical leave. Leave can be taken for a serious illness, care for a family member who is ill, or bonding with a newborn or newly adopted child. More than half of Oregon workers are eligible for unpaid family and medical leave benefits under the federal Family and Medical Leave Act of 1993 (FMLA) and the Oregon Family Leave Act (OFLA). Oregon does require employers of 10 or more workers (six for employers in Portland) to allow employees to accrue and use up to 40 hours of paid sick leave each year. Under HB 2005, an insurance program is created to provide employees with a portion of wages while on family and medical leave or military family leave. The new program will require employees to have received at least \$1,000 in wages during base year and to have contributed to fund in an amount determined by Director of Employment Department to be eligible for the benefit. The legislation directs the Employment Department to set contribution rates, collect payroll contributions and otherwise administer the program. ***BPRD may need to revise internal policy based on this law. The Oregon Employment Department will create Oregon Administrative Rules to administer this new law. More detail will be provided in the rules. Goes into effect in 2023. Payroll deductions will start in 2022.***

HB 2353 – Public Records - Under Oregon law, every person has the right to inspect any public record of a public body in this state, subject to exemptions. Unless otherwise expressly provided by statute, the custodian of any public record must furnish proper and reasonable opportunities for inspection and examination of the records. A public body must respond to a written public record request as soon as practicable and without unreasonable delay. A response to a public records request is complete when the public body provides access to the requested public record information, asserts an exemption, or provides a combination of the two when some information is exempt and some is not exempt. The failure of a public body to provide a proper and timely response is treated as a denial of the request. House Bill 2353 allows the Attorney General, a district attorney, or a court to require the public body pay a \$200 penalty to the requester, plus reasonable attorney fees, if the Attorney General, district attorney, or court determine that the public body responded to the request with undue delay or failed to respond to the request. ***BPRD has a policy that guides our response to a public records request. The policy does not need to be revised as a result of this bill.***

HB 2592 – Transportation Package Fix – The transportation fix bill had many fixes, listed in bullet form below. The portion of the bill that park and recreation agencies were most concerned about was the requirement that Oregon Recreation and Park Department transfer \$4 million of their budget to Oregon Department of Transportation to be used on transportation trails. Oregon Recreation and Park Association's issue with this was whether or not this transfer was constitutional and that transferring these funds to ODOT would erode the Local Government Grant Program for communities that aren't building trails. The result of ORPA's efforts was successful in changing legislation to not redirect the LGGP funding and to administer these transportation trail projects within ORRD rather than ODOT. ***ORPD will open rulemaking and has asked that three members or ORPA sit on the rulemaking committee. Don Horton has been appointed to the committee.***

List of changes in the Transportation Fix bill

- Modifies definition of "bicycle" and "taxable bicycle" for purposes of bicycle excise tax.
- Specifies requirement and exemption for repayment of electric vehicle rebate.
- Increases maximum statutory weight and width for Class IV all-terrain vehicles.

- Authorizes Metro to impose vehicle registration fee, if approved by voters by December 31, 2022, separate from other local government registration fees.
- Clarifies duties of Continuous Improvement Advisory Committee relative to Oregon Transportation Commission. Authorizes compensation.
- Modifies conflict-of-interest provisions related to appointment of members of Commission.
- Modifies statutory reference to Brooks rail siding project.
- Eliminates requirement for semiannual revenue reports related to House Bill 2001 (2009).
- Clarifies vehicle sales to car rental companies using electronic integrator are not subject to privilege tax.

HB 2415 – Public Contract Retainage - If a contract price exceeds \$500,000, requires a contracting agency to place amounts deducted as retainage into an interest-bearing escrow account. Interest on the retainage amount would accrue from the date the payment request is approved until the date that the retainage is paid to the contractor to which it is due. Also requires an owner, contractor, or subcontractor, if a contract price exceeds \$500,000, to place amounts withheld as retainage into an interest-bearing escrow account. ***This will require a change in how we hold and pay retainage.***

HB 2652 – Water Helmets - Oregon law requires boat outfitters and guides to carry equipment such as first-aid, life jackets, light and smoke flares, and running lights. "Outfitters and guides," as defined in ORS 704.010, include any person compensated for providing or offering outfitting and guiding services in this state or any person who holds federal special use permits for commercial outfitting and guiding. House Bill 2652 would require outfitters and guides operating on class III or higher waters to rent, sell, or otherwise make available helmets to all passengers. ***This bill does not directly affect BPRD but could affect us if we start allowing outfitters to run groups through the whitewater channel. In Deschutes County, this bill would be enforced by the Deschutes County Sheriffs Office.***

HB 2769 – Qualifications Based Selection of Design Professionals - HB 2679 allows consideration of pricing information in QBS was discussed in 2018 (House Bill 4127). A workgroup met throughout the interim to develop the policy changes contained in HB 2769. The measure allows a local government contracting agency to select up to three of the most qualified firms that have responded to a request for qualifications and then request pricing policies and other pricing information from those firms prior to making a selection. Requires the local contracting agency to state in solicitation documents what factors will be used to evaluate proposals, including pricing information. Limits weight given to price proposal to 15 percent. Establishes rights to protest a state or local contracting agency's use of Qualifications-Based Selection. ***This bill gives BPRD more flexibility in selecting professional services firms through the RFQ process. Currently we are not allowed to ask what it might cost to perform the service until a selection has been made, and then that price can be negotiated. Asking for pricing before selection could provide helpful information before selecting a firm.***

HB 2835 – Waterways Access - House Bill 2835 would require a state agency to post notice on its agency website before restricting or closing a public access site to a floatable natural waterway. The measure would also require agencies to report annually to the Legislative Assembly on any public access sites restricted, closed, opened, or reopened in the previous calendar year. ***Important bill for BPRD to understand because of what this bill did not do. The original concept would have given river users the right to use public waterways by providing access at bridge locations. ORPA was concerned about this because of the threat of loss of recreational immunity by granting expressed right to use waterways. The bill as approved does not affect BPRD.***

SB 479 – Workplace Harassment Policies - HB 479 Requires public employers to establish and adopt a written policy that seeks to prevent workplace harassment.

Requires policy to include:

- A statement prohibiting workplace harassment.
- Information explaining victim's rights through internal process, Bureau of Labor and Industries (BOLI) process, or other available laws, including a timeline under which relief must be sought, available remedies, and the advance notice that is required under ORS 30.275.
- Statement that person who reports harassment is protected from retaliation.
- Scope of policy and application to public officials, volunteers, and interns.
- Explanation that victim may voluntarily disclose information relating to incidents of workplace harassment, and information to connect victim legal and support services.

BPRD has a Mutual Respect Policy. This policy is under review to see if modifications are necessary. Goes into effect in January 2020.

HB 2341 - Reasonable Accommodations for Pregnancy - This new law, effective 1/1/20, requires employers with six or more employees to provide “reasonable accommodations” to pregnant employees. Reasonable accommodations includes acquisition or modification of equipment, more frequent or longer breaks, assistance with manual labor or modification of work schedules or job assignments. The new law makes it an unlawful employment practice for an employer, because of known limitations related to pregnancy, childbirth or a related medical condition, to : (a) deny employment if the denial is based on a need to make reasonable accommodations; (b) fail to provide reasonable accommodations absent an undue hardship; (c) take adverse action because an employer has inquired about, requested or used a reasonable accommodation, or (d) require an employee to take leave if other accommodations are available. The new law also requires employers to post signs informing employees of their rights, and to provide a written copy of the notice to new employees at the time of hire, existing employees within 180 days after the effective date of the Act, and within 10 days of receipt of notice that an employee is pregnant. ***BPRD will develop a new policy to address the requirements of this bill.***

HB 2593 - Nursing Mothers - This new law, effective September 29, 2019, requires every employer to allow nursing mothers with a reasonable (unpaid) rest period to express milk each time the employee has a need to express milk. Employers with 10 or fewer employees are not required to provide these rest periods if it would impose an undue hardship. Employers must also make reasonable efforts to provide a location, other than a restroom or toilet stall, in close proximity to the employee’s work area for the employee to express milk in private. ***BPRD will update existing policy.***

SB 1049 – PERS – SB 1049 relates to public employee retirement and contains provisions to address system funding. The measure:

Redirect IAP

For employees with salary above \$2,500.

- Tier 1/2: 2.5% to the stability account and 3.5% to IAP
- OPSRP: .75% to stability account, 5.25% to IAP
- Members can top up their IAP voluntarily
- Income level adjusted for inflation annually
- Effective July 1, 2020

Employer side accounts

Makes technical changes to lump sum payments. Employers have to make payments before Jan. 1, 2024 to take advantage of the Employer Incentive Fund match.

Pension obligation bonds

Requires employers to do things before they issue bonds (actuarial assessment, financial advice etc.) very similar to HB 3123.

Amortization of unfunded liability

Extended to 22 years from 20

Employee choice in IAP

Requires notice to workers about investment decisions and appears to delay the implementation of investment choices to Jan. 1, 2021 (was supposed to be this year)

Work after retirement

For 2020-2024, retirees can be reemployed for unlimited hours, so long as they have a six month break between retirement date and reemployment. Employers must pay the employer contribution (as if the person was an employee) toward unfunded liability.

Final average salary cap

\$195,000 (effective Jan. 1, 2020) and will be adjusted for inflation over time. It does not apply to judges. (note: the cap is currently \$200,000)

Sports betting proceeds

If the lottery allows sports betting, the proceeds go to the Employer Incentive Fund (used to match employer lump sum payments). Applies until 2041. Allows \$100,000,000 General fund to be spent from Employer Incentive Fund

Expedited Supreme Court review if challenged.

COURT CASES

Oswego Lake court case: The Oregon Supreme Court refused to determine if Oswego Lake is a “navigable waterway” which would require it to be public.

The Court conceded that IF the lake is “among the navigable waterways that the state holds in trust for the public,” then neither the state nor the city of Lake Oswego can interfere with the public’s right to use it, but they wouldn’t label it as such.

Instead, the lawsuit (first filed in 2012) was sent back to the lower court to make a decision as to whether the Lake is a “navigable waterway.” If it is determined to be, that means it is owned by the state and cannot have unreasonable restrictions placed upon it. Going back in history, a waterway was determined to be navigable if it could be used for commerce at the time of statehood. ***This bill is of interest across the state because recreationalists, including those in bend cross private property all the time on waters “of the State.” We will continue to watch this suit as it moves back to the lower court.***

McCormick vs State of Oregon case: The Oregon Supreme Court has yet to make a decision on McCormick vs State of Oregon. This case was a suit against the state of Oregon for negligence where a swimmer at Lake Billy Chinook jumped of a pier owned and cared for by Oregon Recreation and Parks Department. The swimmer jumped off the pier and hit a rock under the water claiming that the owner did not properly notify. The State of Oregon claimed Recreational immunity and lost in the lower court.

Oregon Recreation and Parks Association is carefully watching this case because of the ramifications it could have on property owners across the state. If the Supreme Court does not overturn the lower court decision, it may be necessary to support legislation that strengthens the recreational immunity act.

BPRD submitted an amicus brief for this case. Our attorneys will continue to monitor this case and offer advise once the court had rendered a decision.

OFF-SEASON TOPIC

SDCs – House Speaker Tina Kotec has an interest in finding ways to reduce the cost of workforce housing. One way is reduction in SDCs. It is likely that a working committee will be formed to address this issue. The ORPA lobbyist will make an effort to be on this committee representing ORPA members. ***It is possible that BPRD staff will be asked to testify.***

