



Snyderville Basin Special Recreation District
Board Meeting Minutes
Wednesday, August 5, 2009
Schefter Conference Room - Trailside Park
5715 Trailside Drive
Park City, Utah

Board Members in Attendance: Scott McClelland, Sharon Odell, Ron Perry, Scott Siemon, Kevin Simon, Marilyn Stinson.

Absent: Tracey Douthett

Staff/Employees Present: Bonnie Park, Senta Beyer, Maikella Parker, Justine Islieb

Attending Guests: Jerry Kinghorn - Counsel to the District; Stan Plaisier – Singletrack Engineering; Chris Schulz – co-owner Jeremy Ranch PP-50 parcel

The meeting of August 5, 2009 was called to order by Chair Odell at 6:10 pm. Park said in the absence of Director Rena Jordan, some items on the agenda would be tabled this evening.

PUBLIC INPUT

Park said she believed that there would be individuals in attendance at this meeting to provide public input. There was no public in attendance at this point in the meeting.

CONSIDERATION AND APPROVAL OF AGREEMENT BETWEEN SBSRD AND SBWRD

Bonnie Park said the Water Reclamation District has approved the trailhead agreement with conditions. Jerry Kinghorn, who was at the SBWRD meeting said the approval is pending permits by the Army Corps and State Engineer's Office. Kinghorn disclosed for the record that he represents both the Recreation District and the Water Reclamation District. He does not believe there is anything contained in the Agreement that creates a conflict for him, for either District.

At this point in the meeting, Chris Schulz, a partner in the PP-50 parcel at Jeremy Ranch arrived. Chair Odell invited Mr. Schulz to provide public input at this time.

Schulz introduced himself and stated he acquired the property about eight years ago with the understanding that, at that time, no one really wanted it. It was purchased from Virginia Beach Bank and Fourth Princess Ann Properties with the understanding that there could be a use for it. At the time a development application was made to Summit County, the trail access and bridge were offered for public dedication. Summit County disagreed with the land use he proposed. Schulz said sensible people with common goals have to be able to come up with a good solution. Schulz said they now understand that Summit County and Basin Recreation are two separate entities. He said he was able to speak with the new County Council a week or so ago to possibly re-visit the issue. It is his hope to come to a solution where nobody is right or wrong, but to get everybody what

they want. He stated the Recreation District's interest is access in a clean environment and a good spot for a trailhead. Schulz expressed his interest in working together to achieve a use without having the District spend any money. At one time the County said "no." Now they are saying "maybe" and to work with the Recreation District. Basin Recreation staff have been accurate and deliberate in stating that they are not capable or empowered with the right to negotiate property acquisition on behalf of Basin Recreation. Schulz stated the position of County Councilman Chris Robinson who believes it is a noble and great thing, but that there is no funding available. Schulz said the purpose in meeting with the Board tonight on behalf of himself and partner Kevin Weed is to see if there is something mutually that can be done to minimize County and Basin Recreation expenditures and maximize opportunity. He said there are some issues to discuss: (1) whether the District wants to acquire the parcel, or; (2) work with the County to accomplish another option where the District has no expense and property owners give the bridge, access easement, and parking area to the Recreation District and the parcel owners gain a use from Summit County that is aesthetically compatible to the values and goals of Basin Rec. A third option is a short term lease. Schulz stated the property owners don't have a preference as to the options, but before Basin Rec. approves major expenditures for a parcel next door that these ideas be reviewed given the fact that he has put SBWRD on notice that PP-50 owns the road up to the (school district) bus barn. Schulz stated his understanding that the SBWRD has a 20' easement granted to them "for the sole and exclusive purpose of constructing, maintaining and installing an underground sewer line, period, and that's it." He went on to say that over the last eight or nine years the property owners have posted the road as private property. At times they have blocked the bridge out of frustration on advice from their attorney saying they can't allow prescriptive rights to start. Out of good faith and efforts of District staff, and PP-50 owners wanting to be good neighbors, the obstruction was removed and access has been "pretty much unfettered this summer." Schulz requested the Board engage in a constructive dialog to see if "we can get everything everybody wants." The project planned in cooperation with the sewer district may be too far down the road, but stated he has no choice but to protect their private property rights. He explained there is a difference of opinion on prescriptive rights, and that would need to be decided by a judge with the added expense of a lot of attorney's fees. Scott McClelland asked Schulz to explain prescriptive rights. Schulz said when either private parties or the general public have enjoyed unfettered, unrestricted access over a parcel of property where it has not been posted and there has not been a restriction placed upon it, there may be a claim for prescriptive rights. He said where people get confused is if there has or hasn't been access across the property, the only thing anybody has is a claim. Only a judge can establish prescriptive rights after a claim is made, and then adjudicate it. Schulz said Beyer, Park and others have stated they have had unfettered access, but the big question is how much time will be spent discerning if it was unfettered and unrestricted in excess of fifteen years. McClelland asked when the bridge was put in. Schulz said there was a bridge there before the current structure, but it was two planks. He said the bridge is one issue; the other issue being whether the parcel can be crossed at all. Schulz questions if there is not a constructive dialogue that would help a positive outcome. Schulz described possible uses for the PP-50 parcel. He provided history on their request for a lot of record determination. Independent appraisals are based on zoning, and the PP-50 price is based on values established by lot of record status in Jeremy Ranch, given offsetting, contributing factors and in the appraiser's original response the property valued at approximately \$350,000. Schulz acknowledged that was eight or nine months ago, and property values have since fallen off. Scott Siemon said from the background provided in a staff report by Bonnie Park, this parcel was part of the Jeremy Ranch Consent Agreement. The bridge was built and one condition was that the public easement be provided as a part of this parcel. Siemon said what was considered public has now gone back to private and it is being proposed that the Recreation District buy back what was a condition of an original agreement. Schulz provided his interpretation of the Jeremy Ranch consent agreement and recollection of discussions held with Bob DeFord representing Fourth Princess Ann, the Jeremy Ranch HOA (JROA), Virginia Beach Bank and others. He believes the PP-50 parcel was abandoned by the JROA in exchange for a two-acre parcel along Homestead for a park. He believes the PP-50 lot has value, he believes they can get the Recreation District what it wants, he believes the parties could work together on an outright purchase, or he believes it is a matter of the County Council making the interpretation that there could be a use. Scott Siemon verified with

Schulz that PP-50 owners would challenge public access. Schulz said that it is on advice from their counsel. He expressed their desire to exhaust all remedies. McClelland questioned the value of the land, and said the purchase price of \$315,000 for a trailhead is beyond the means of the District. Schulz said they believe the lot has value and they could build a house on it. Schulz said terms for purchase could be arranged. He said he has notified the SBWRD that they are trying to enter into an agreement with another agency that provides an access for something they don't have a right to. Either way, he believes a judge may find prescriptive rights and a condemnation action will need to follow. Kevin Simon inquired for the sake of argument if the purchase price should not have an offset for the risk of litigation that the court could come back and find there to be a prescriptive easement or somehow interpret the consent agreement in a manner favorable to the Recreation District that might not require the District to pay anything, and would that be worthy of an offset to what the owners believe it to be worth. Schulz said the property price started at \$400,000. Their attorney Bruce Baird was directed not to attend this meeting. PP-50 owners felt as though they invested the time with appraisers to determine the value. They own 80% of the bridge. It was installed by Virginia Beach. The JROA has the right to use it to access the open space once a year with equipment to maintain the property. Schulz stated he has read the consent agreement not less than twenty times. He does not expect the Board to have an answer this evening, but believes all parties can get what they want without spending a lot of money. Schulz said the County assessment for tax rolls as of today is \$341,000.

Upon the departure of Mr. Schulz at 6:49pm, Jerry Kinghorn suggested the Board Chair entertain a motion to enter into executive session. Topic of discussion, possible litigation.

MOTION: To enter into closed executive session. [Simon/Perry]. All in favor: Scott McClelland, Ron Perry, Scott Siemon, Kevin Simon, Marilyn Stinson. None opposed. Absent: Tracey Douthett. Motion carries.

At 7:37 pm, Chair Odell called for a motion to close the executive session and reconvene the public meeting.

MOTION: To close the executive session and re-convene the public meeting. [Perry/McClelland] All in favor: Scott McClelland, Ron Perry, Scott Siemon, Kevin Simon, Marilyn Stinson. None opposed. Absent: Tracey Douthett. Motion carries.

AGREEMENT BETWEEN SBSRD AND SBWRD FOR CO-LOCATION OF FACILITIES

Board members received a copy of the agreement in their Board packet. Bonnie Park said the Board has discussed draft forms of this agreement in previous meetings. The last change requested by the SBWRD incorporated a termination clause. That draft was reviewed at the July 1st SBSRD meeting. Kinghorn said the SBWRD masterplan for the next 30 years does not contemplate use of this property. However, in the eventuality that they needed to take the property back for some reason in the future, they wanted a provision to provide notice and work out an access and trailhead by moving the parking lot.

There being no additional discussion, Chair Odell called for a motion.

MOTION: To approve the Agreement between Snyderville Basin Special Recreation District and Snyderville Basin Water Reclamation District to provide public access to the Recreation District's public trail system, including the construction, operation and maintenance of a trailhead parking lot, a bridge, and other facilities. [McClelland/Simon] All in favor: Scott McClelland, Ron Perry, Scott Siemon, Kevin Simon, Marilyn Stinson. None opposed. Absent: Tracey Douthett. Motion carries.

CONSIDERATION AND APPROVAL OF BID AWARD FOR EAST CANYON CREEK TRAIL CROSSINGS

Board members received a copy of the bid summary in their Board packet. Senta Beyer said five bids were received for the bid opening on Tuesday, July 28, 2009. The low bid was Boerboom Construction. Beyer said this company has done work for the District in the past at St. Mary's trail and Sun Peak trail. They have installed two bridges as a part of those projects. Stan Plaisier met with the contractor last week to review the bid submittal and specific line items. Boerboom is not planning to install a secondary bridge during construction. Stan Plaisier said if the contractor's approach does not work out, the additional item would cost \$12,000 and is still less than the next lowest bid. He believes Boerboom has taken an innovative approach. Beyer reviewed qualifications of other bidders, all of whom are reputable. McClelland clarified that there are still some other permitting hurdles to get through. Beyer reviewed the pending permits, which include Summit County, Army Corps and State Engineers and described meetings and communications that occurred with the agencies earlier this year. Plaisier said all permits should be in place in not more than 2-3 weeks. McClelland questioned what happens if any one permit is not approved. Kevin Simon suggested there be conditions in the contract. Plaisier said there is a bid schedule with a number of tasks to be completed; if the Board makes the award with conditions that would be reasonable. Jerry Kinghorn said he understands that after the bid award, design will begin on the pre-fab bridge and the contractor will get bonds in place. Notice to proceed will not be given until permits are in place. Simon suggested the access easement to the SBWRD parcel could be assignable and questioned what the PP-50 response could be. Kinghorn said they could disagree with that interpretation. He pointed out the SBWRD access is not an exclusive easement. McClelland said based on all possible alternatives, acquiring the PP-50 parcel at a much reduced price, possibly 1/10th of the asking price, would be the best option, but it is clear that based on discussion this evening that is not an option. Chair Odell called for a motion for the bid award.

MOTION: To award the bid to Boerboom Construction for the East Canyon Creek Bridges and Trailhead with the condition that, prior to work being started or Boerboom Construction being paid, the notice to proceed be subject to permits being approved by the State Engineer's Office, the Army Corps of Engineer's and Summit County Engineer, and those conditions to be entered into the contract. The bid award is in the amount of \$104,994.20. [McClelland/Simon] All in favor: Scott McClelland, Ron Perry, Scott Siemon, Kevin Simon, Marilyn Stinson. None opposed. Absent: Tracey Douthett. Motion carries.

Jerry Kinghorn departed at this point in the meeting and said he will continue to work with Bonnie Park on resolving other issues.

In the absence of Rena Jordan, District policy discussions on governance and tennis courts were tabled. Park said the Trail Events policies can be addressed this evening.

TRAIL EVENTS POLICIES

Senta Beyer briefed the Board on the Trail Events Policies and her efforts to work with Park City to bring policy consistencies between the entities. The biggest change in this policy is the way in which fees are calculated. Senta Beyer reviewed the mapped trail corridors in the Basin where events are allowed. There are neighborhoods where events are not permitted by the District. On each approved trail segment, no more than four events are permitted annually. The Cinco de Mayo fun run and Mid-mountain Marathon are District sponsored events that are excluded from the count. Discussion followed to clarify damage deposits and user fees.

MOTION: To repeal and replace the SBSRD Trail Events policy as written August 5, 2009. [Perry/Stinson] All in favor: Scott McClelland, Ron Perry, Scott Siemon, Kevin Simon, Marilyn Stinson. None opposed. Absent: Tracey Douthett. Motion carries.

SPLASH PAD PROJECT PLAN UPDATE

Bonnie Park said two bids have been received for the parking study and the low bid was \$980. That project will get underway. Staff has been working with the project architect and Vortex representative on splash pad design in terms of locating mechanical systems and the underground water storage tank.

DIRECTOR RECOMMENDATION ON BANKING SERVICES

This discussion was tabled until Director Rena Jordan can be in attendance.

SERVICE PROVIDER/PLANNING UPDATE

Park reported no new plats have been signed in the last three weeks. She said planners for the Stone Ridge project held a meeting this morning to present minor modifications to the plan. There continues to be a neighborhood contingent opposed to the workforce housing. The project will be on the Snyderville Basin Planning Commission agenda Tuesday, August 11th.

APPROVAL OF MINUTES 7/1/09 and 7/15/09

Chair Odell called for comments or questions on minutes included in the Board packet.

MOTION: To approve the minutes of July 1, 2009, as written. [Perry/McClelland] All in favor: Scott McClelland, Ron Perry, Kevin Simon, Marilyn Stinson. Scott Siemon abstained due to his absence at that meeting. None opposed. Absent: Tracey Douthett. Motion carries.

Scott Siemon inquired how the old artificial turf from the Fieldhouse was distributed. Board members said it was given away for free with the intention of having it hauled away at no expense to the District, while keeping it out of the landfill.

MOTION: To approve the minutes of the July 15, 2009 work session, as written. [Stinson/McClelland] All in favor: Scott McClelland, Ron Perry, Kevin Simon, Marilyn Stinson. Scott Siemon abstained due to his absence at that meeting. None opposed. Absent: Tracey Douthett. Motion carries.

APPROVAL OF INVOICES

Board members received a summary of payables in their Board packet dated June 26 – July 29, 2009 for Board review (attached). Following brief discussion, Chair Odell called for a motion to approve.

MOTION: To approve the invoices of June 26 – July 29, 2009 in the amount of \$427,145.22. [Siemon/Stinson] All in favor: Scott McClelland, Ron Perry, Scott Siemon, Kevin Simon, Marilyn Stinson. None opposed. Absent: Tracey Douthett. Motion carries.

SECOND QUARTER FINANCIAL REPORT

Board members received a copy of the second quarter financials in their Board packet (attached). Maikella Parker presented the report to the Board. Highlights include the increase of redemption (prior year's taxes) over the same period last year. Due to income generated by "Snowmen the Movie" field rentals and pavilion and room rentals increased. Parker reviewed O&M expenses by department. She noted camp program revenue is down, but camp counselor positions have been reduced to save on payroll expense. With fewer children in camps District vehicles are being used, in lieu of contracting transportation service, as a cost saving measure. Overall at the mid-point of 2009, District expenses are at 40% of the lean budget and 37.5% of the adopted budget. Scott McClelland said it would be interesting to have comparative information from 2008 to observe if there are trends in spending from year to year. Capital expenses were highlighted in the second quarter financial summary.

DIRECTOR COMMENTS/ACTION ITEMS

Bonnie Park informed the Board that a joint work session with Mountain Trails Foundation has been planned for the August 19th meeting. She also requested feedback on Board availability to switch the September meeting schedule to meet on the 9th and 23rd of September for a variety of reasons. Marilyn Stinson and Scott McClelland reported conflicts with the proposed date changes.

BOARD MEMBER QUESTIONS/COMMENTS

There were no Board member questions or comments.

PUBLIC INPUT

No public input was provided at this meeting.

EXECUTIVE SESSION

Due to the absence of Director Jordan, the executive session was tabled.

At 8:35 Chair Odell called for a motion to adjourn.

MOTION: To adjourn the meeting of August 5, 2009. [Stinson/Siemon] All in favor: Scott McClelland, Ron Perry, Scott Siemon, Kevin Simon, Marilyn Stinson. None opposed. Absent: Tracey Douthett. Motion carries.

MOTIONS

MOTION: To approve the Agreement between Snyderville Basin Special Recreation District and Snyderville Basin Water Reclamation District to provide public access to the Recreation District's public trail system, including the construction, operation and maintenance of a trailhead parking lot, a bridge, and other facilities. [McClelland/Simon] All in favor: Scott McClelland, Ron Perry, Scott Siemon, Kevin Simon, Marilyn Stinson. None opposed. Absent: Tracey Douthett. Motion carries.

MOTION: To award the bid to Boerboom Construction for the East Canyon Creek Bridges and Trailhead with the condition that, prior to work being started or Boerboom Construction being paid, the notice to proceed be subject to permits being approved by the State Engineer's Office, the Army Corps of Engineer's and Summit County Engineer, and those conditions to be entered into the contract. The bid award is in the amount of \$104,994.20. [McClelland/Simon] All in favor: Scott McClelland, Ron Perry, Scott Siemon, Kevin Simon, Marilyn Stinson. None opposed. Absent: Tracey Douthett. Motion carries.

Minutes prepared by Bonnie Park

Clerk/Board Member Approval:

