

## MEETING MINUTES

**RECORDED BY:** Melonie Trang

**MEETING PURPOSE:** PRC Board Meeting

**MEETING DATE AND LOCATION:** November 18, 2009  
Community Center



**ATTENDEES:** PRC Board Members:  
Tom Iverson, Rick DeVore, Rachel Cox, Todd Royal, Gary Gray, Catherine Grott, Darwin George

PRPL Staff Members:  
Mike Whitaker, PRPL Director  
Jon Thompson, Park Superintendent  
Kory Thomson, Recreation Supervisor  
Mark Jarvis, Park Planner

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### I. MEETING CALLED TO ORDER

Chairman Tom Iverson called the meeting to order at 11:35 am.

#### A. INTRODUCTIONS

City Administrator Tina Volek, City Attorney Brent Brooks, Chuck Barthuly, Jeff Rice, Gregg Wilson and Andrew Billstein were in attendance.

#### B. APPROVAL OF THE October 21st, 2009 MINUTES

*Chairman Iverson made a motion to approve the October minutes. All Board members approved and the minutes were accepted.*

#### C. ADDITIONS TO THE AGENDA

Mr. Iverson added that there were two members of the Board; Margy Bonner and Gary Gray whose terms were up at the end of the year.

### II. DIRECTORS REPORT – Mike Whitaker

- Director Mike Whitaker mentioned Cemetery Superintendent Lee Stadtmiller would not be attending today's board meeting; he was tied up at the cemetery.

### III. PUBLIC COMMENT

Chuck Barthuly commented on his support for the Heights Pool Project and that he was there to answer any questions the Board might have.

### IV. UNFINISHED BUSINESS

#### A. Heights Pool Project:

City Attorney Brent Brooks presented the revised Funding and Development Agreements for the heights pool project. Agreement 1 proposes the City of

Billings lease a portion of land at Sahara Park as per Master Plan A for the development of an Aquatic Project. This agreement gives the city partial liability if something should happen, it would be for a term of 10 years, and the foundation shall pay rent. Agreement 2 proposes a portion of land at Sahara Park as per the Master Plan A be sold or donated by the City of Billings to the Foundation for the development of an Aquatic Project. This agreement would release the city from any liability, and give all ownership to the foundation. Both agreements include a clause stating that if the Aquatic Center should cease operation all structures and land shall revert back to the city, the foundation pay all costs incurred in the design and construction and shall maintain an annual Irrevocable Standby Letter of Credit in the amount of \$100,000. (Copies of the revised agreements are included in the Board packets for any additional information)

Mr. Brooks noted the revisions made to both agreements; Section: **Agreement – 10. Operation, Management and Maintenance** added (*To secure ongoing performance of its obligations under this Agreement, the Foundation shall maintain an annually renewed Irrevocable Standby Letter of Credit in the amount of One Hundred Thousand Dollars (\$100,000.00) in the form as provided in the attached Exhibit C.) In the event that all improvements (including buildings and accessory structures) and the Aquatic Project Land revert to the City pursuant to Section 4 of this Agreement, an applicable sale agreement, deed or otherwise, the City shall in its sole and singular discretion be entitled and authorized to execute upon and present for payment this Irrevocable Standby letter of Credit up to and including the full amount in order to make repairs or other expenditures to the Aquatic Project. The necessity to execute upon this security shall be determined in the sole discretion of the City. ~~the Foundation shall transfer such Capital Replacement Fund to the City. not object to, obstruct, impair, impede or institute any legal proceeding challenging the execution upon or payment of funds provided in the attached Irrevocable Standby Letter of Credit.~~* Section: **12. Mediation and Arbitration** added (*This is a policy decision by the Administrator and City council, however, as I have expressed on several previous occasions, I do not recommend arbitration as the sole, final method of dispute resolution which excludes litigation*).

Board member Rachel Cox asked which agreement staff preferred. Mike said city staff was more in favor of the sale of land due to liability.

Board member Rick DeVore expressed his concern regarding the ten year term of the agreement being too long. Mr. Whitaker responded that the agreement does state ten years but the foundation will have three years to start the project and then one year to complete it once it has been signed. Mr. Brooks stated the longer you have an agreement in place, the more difficult it becomes if conditions or times change to modify it. He also said it was up to the board to make any recommendations to change the term of the agreement. No further discussion on the term of the agreement was discussed.

Chairman Iverson asked if the agreement states what the funding contingency is regarding an amount the foundation has to reach. It was stated by a representative of the Better Billings Foundation that it was tied to the feasibility study and not specifically mentioned in the agreement. Mr. Iverson asked the foundation what they thought the amount to build the aquatic center would be. They said the feasibility study showed it would cost around 4.5 million to build phase one of the project but they believed it would be closer 4 million instead. Mr. Iverson expressed the agreements should include an amount of the aquatic project.

*Board member Catherine Grott made a recommendation for the City of Billings to lease the land as per the agreement to the Better Billings Foundation. Board member Todd Royal seconded. Board members Rick DeVore, Catherine Grott and Todd Royal were all in favor. Board members Gary Gray, Darwin George, Tom Iverson and Rachel Cox were against. On a 3-4 in favor the recommendation did not pass.*

*Board member Darwin George made a recommendation for the City of Billings to sell the land as per the agreement to the Better Billings Foundation. Board member Gary Gray seconded. Board members Gary Gray, Darwin George, Tom Iverson and Rachel Cox were in favor. Board members Rick DeVore, Catherine Grott and Todd Royal were against. On a 4-3 in favor the recommendation passed.*

*Board member Gary Gray made a recommendation to add the wording at the end of the first sentence “four million in cash, trade, pledges, loans and in-kind-donations” under section 4. Transfer of Property. Board member Todd Royal seconded. All were in favor and the recommendation passed.*

*Board member Catherine Grott recommended the alternative of “Irrevocable Standby Letter of Credit under section 10. Operation, management and Maintenance that the City of Billings and the Better Billings Foundation agree upon a contingency mechanism in terms of \$100,000 fund to be used to raise or repair the aquatic facility if the ownership reverts back to the city. Board member Gary Gray seconded. Recommendation passed unanimously.*

*Both agreements will be revised with the board recommendations and forwarded on to City Council for their review and final approval or disapproval.*

**B. Pioneer Park master Plan Update:**

Discussion on Pioneer Park was postponed until the December.

**C. Dog Park Update:**

Discussion on the Dog Parks was postponed until the December.

**D. Mountain Pine Beetle:**

Discussion on Mountain Pine Beetle was postponed until the December.

## **V. NEW BUSINESS**

### **A. Par 3 Contract & Budget:**

Par 3 requested approval of their 2010 proposed budget which includes five capital improvements and a minimal increase in fees and ground expenses. Board reviewed the proposal. Board member Gary Gray made a motion to accept the 2010 budget as presented. Board member Rick DeVore seconded. All were in favor and the motion passed. Par 3 will present their budget to City Council for review and final approval or disapproval.

Par 3's five year lease agreement has expired and request for action to renew the lease for another five years was made. Board member Darwin George made a motion to renew the lease. Board member Catherine Grott seconded. All were in favor and motion passed. The Park and Recreation department will present the lease to Council for final approval or disapproval.

### **B. Department Mission & Vision Statements:**

Mike Whitaker requested for a board member(s) to participate along with staff in creating a mission and vision statement for the department. Ms. Grott volunteered.

### **C. Proposed Fee Increases for 2010:**

Recreation Supervisor Kory Thomson presented the proposed fee increases for recreation services in 2010. (A copy of the proposal is included in the board packet) Board member Gary Gray made a motion to approve the proposed fee increases. Board member Darwin George seconded. All were in favor and motion passed. The proposed fees will be presented to City Council in December for final approval or disapproval.

## **VI. DIVISION UPDATES**

### **A. Recreation Division-Recreation Superintendent Joe Fedin:**

No report

### **B. Park Division-Park Superintendent Jon Thompson:**

No report

### **C. Park Planning Division-Park Planner Mark Jarvis:**

Park Planner Mark Jarvis gave a printed report. No additional information was given.

### **D. Cemetery Division-Cemetery Superintendent Lee Stadtmiller:**

Cemetery Superintendent Lee Stadtmiller printed report was included in the board packet. No additional information was given.

## **VII. ADJOURNMENT**

1:30 pm

