

**MINUTES OF THE SPECIAL MEETING
OF THE BOARD OF DIRECTORS OF THE
CHERRY CREEK VISTA PARK & RECREATION DISTRICT
HELD**

February 28, 2013

A special meeting of the Board of Directors of the
Cherry Creek Vista Park & Recreation District was held at 6:00 p.m. on February 28, 2013 at
St. Peter's Lutheran Church, Greenwood Village, CO 80111.

The meeting was open to the public.

Attendance

In attendance were Directors:

Howard Buchalter, President
Eric Hook, Assistant Secretary
Bernie Gehris, Assistant Secretary
Melissa Wilson, Vice President
Brendan Adams, Treasurer

Also in attendance were:

Conner Shepherd, Circuit Rider of Colorado, LLC
Dawn Schilling, Schilling and Co.
Jim Hunsaker; Spencer, Fane, & Grimshaw
Colin Mielke, Spencer, Fane, & Grimshaw
Cindy Shepherd; Citizen

**Call to Order/
Agenda/Dec-
laration of Con-
flicts of Interest**

Director Buchalter called the meeting to order at 6:09 p.m. and declared a quorum. He asked if there were any conflicts of interest that needed to be disclosed. Director Buchalter noted a change in the agenda.

The Agenda was approved by acclamation.

Public Comment

none.

Legal Items:

Renegotiated Contract for Cell Tower

Discussion followed regarding a contract extension for the cell tower lease. Mr. Hunsaker explained how the original Unison proposal fell apart based on Clearwire never having been on site as T-Mobile represented. Unison revised its offer based on the lesser lease payments. Mr. Hunsaker clarified the negotiation process that has occurred since the offer from Unison for a renegotiated lease. Crown Castle offered an abandonment clause, a 60 year lease, but no 50-50 revenue sharing agreement. Discussion followed.

Mr. Hunsaker presented a spreadsheet to compare the annual lease payments and the single payment provisions by Unison and Crown Castle. He said the offers are essentially the same though Unison wanted a larger footprint and Crown Castle offered a larger single payment. Director Buchalter acknowledged that the District has immediate financial

obligations together with the need to have an adequate fund balance. He recognized that the mill levy isn't adequate to meet the annual needs of the District. Mr. Hunsaker asked for Board direction in his efforts to negotiate further with the two parties. Director Buchalter made a motion to rescind the Unison proposal approved by the Board and accept the Crown Castle proposal subject to final negotiations by Mr. Hunsaker and with final approval by a sub-committee comprised of Director Adams and Director Buchalter. Director Wilson seconded the motion. Director Gehris said he opposes the motion based on his expectation that the Board would not hold off on spending the residual windfall funds on things like screening, flower pots, and other landscaping issues after project expenses had been paid. Director Adams pointed out that the state of the telecom industry is such that we might not be able to rely on a long term payment option. Director Hook agreed. Director Adams said Director Gehris' concern is justified. The District seems to be between the proverbial rock and hard spot. He suggested a friendly amendment that we maintain a minimum fund balance for a contingency fund that will not be violated.

Director Buchalter said he is for a minimum fund balance but we need to make improvements to the pool. Director Adams asked what is needed versus what is desired. Director Gehris we have been siphoning funds off to pay for capital improvements. Director Buchalter said we really need to have a six-figure fund balance from year to year. Director Adams how long would it take to build up a contingency if we didn't go with the lump sum?

Discussion followed regarding the possibility of going to an election to raise the mill levy for operations and maintenance. Director Gehris said that the Board should not expect a tax increase. He pointed out the last request for a tax increase failed. Director Buchalter said he didn't think this is part of tonight's issue. Director Hook said he thought we should stop watering our park. Mr. Hunsaker confirmed we could go to an election in November.

Ms. Schilling said the special revenue fund and the debt service funds are solvent. The Capital Fund is the one in difficulty and the pool is not going to get the subsidy from the General Fund in 2013. The pool operates on a loss. Director Buchalter the pool needs to be improved. Director Gehris said the annual pool maintenance issues are simple. The real need is to scrape the building and build a better mousetrap.

Mr. Hunsaker reiterated that the District could go to an election in 2013. Concerns were raised about not being able to get a capital improvement plan ready by the November election. Ms. Schilling said we need an Operations mill levy increase election.

Discussion followed re: the pros and cons of the instant funding versus the long term payments and the possibility of a successful election.

Director Gehris called the question ending discussion. **Upon a motion by Director Buchalter with a second by Director Wilson, on a three-to-two vote, the Board approved rescinding the Unison proposal and accepting the Crown Castle Lump Sum Lease with the following caveat: The Board appointed Directors Adams and Buchalter as a sub-committee to explore possible options that may include a substantial down payment with continued monthly lease payments.**

Pool, Park & Open Space:

Poo Free Parks

Mr. Shepherd said he would like the Board's permission to enter into a contract with Poo-Free-Parks to supply dog poop disposal stations and maintain the stations with refills at no continuing maintenance cost to the District. **Upon a motion by Director Hook with a second by Director Buchalter, the Board approved the installation of Poo-Free Park dispensers at \$185/dispenser.**

Potential Insurance Claim

Mr. Shepherd apprised the Board of an injury that occurred on the basketball court at Sunset Park. He said he forwarded the information on to District's legal counsel and to the insurance agent.

Other

Cottonwood Creek Trail Project

Upon a motion by Director Wilson with a second by Director Adams, the Board approved an invoice from American Civil constructors in the amount of \$34,626.93 subject to review by Muller Engineering.

Upon a motion by Director Wilson with a second by Director Buchalter, the Board approved continuation of the Agreement with Muller engineering for an amount not-to-exceed \$25,000.

Adjournment:

Upon a motion by Director Gehris with a second by Director Adams, the meeting was adjourned at 7:38 p.m. The next meeting of the Cherry Creek Park & Recreation District is scheduled to be held on March 21, 2013 at 9300 East Belleview Ave., St. Peter's Lutheran Church, Greenwood Village, CO 80111. The meeting is open to the public.

Secretary for the Meeting:

Conner W. Shepherd