

Woodland Park Downtown Development Authority Board of Directors

**City Hall – City Council Chambers
220 W. South Avenue, Woodland Park, CO**

SPECIAL MEETING MINUTES

May 21, 2015 – 7:30 AM

CALL TO ORDER AND ROLL CALL: Chairman Dale Schnitker called the meeting to order at 7:30 AM.

IN ATTENDANCE - Board of Directors: Dale Schnitker (Chair) (recused from meeting 7:39-7:51), Merry Jo Larsen (Vice-Chair) (chaired the meeting from 7:39-7:51), Al Born (Secretary/Treasurer), Tanner Coy, Jon DeVaux, Vera Egbert, Michael Faber, Noel Sawyer, Jan Wilson. **Staff:** Brian Fler, Executive Director; Carol Lindholm, Staff. **Others Present:** David Buttery, Sally Riley, Neil Levy, Brooke Smith, Debbie Miller, Mark Weaver, Tony Perry, Renee Bunting, Arden Weatherford, Steve Randolph, Bill Page, Ray Nunn.

ADDITIONS, DELETIONS OR CORRECTIONS TO AGENDA: None.

APPROVAL OF AGENDA AND MINUTES:

MOTION: To accept the Agenda and to approve the Minutes of the May 5, 2015 Regular Meeting. Larsen/Born. Passed 9-0.

AQUATIC CENTER – CONTRACT TO BUY AND SELL REAL ESTATE: Fler reported that he worked through the contract with Erin Smith, City of Woodland Park Attorney, and Mark Weaver, who represents the DDA. This agenda item will be presented to City Council for approval at the meeting to be held this night.

Fler reviewed #30 of the Contract “Additional Provisions” as follows:

1.) Actual Purchase Price shall be determined after Buyer has conducted a new Survey, at Buyer expense, for the exact parcel size and configuration Buyer requires and that land area shall be multiplied by \$3.75 per square foot of such area to equal the exact price of the Subject Property. This actual Purchase Price shall be determined on or before May 21, 2015.

Fler noted that these dates will float. Once the Contract is approved, the DDA can finalize the Vectra Lot purchase. \$3.75/SF was the number established by the CBRE appraisal. The land will be surveyed by the City to determine the final square footage and thus final sales price.

2.) The calculation for the cash and debt relief portions of the actual Sale of this Subject Property shall equal an amount that Seller shall receive \$100,000.00 in Cash at the Closing, PLUS, additional debt forgiveness from the City of Woodland Park to the Downtown Development Authority. Such debt forgiveness shall be the difference in the actual Purchase Price less the \$100,000.00 cash portion.

3.) *Until new Survey can be completed, the attached Exhibit A shall reference the approximate area and location of the Buyer's Subject Property to be purchased.*

Fleer noted that Exhibit A is the NES drawing that shows the Aquatic Facility location in Woodland Station. Fleer will bring the survey to the DDA once completed.

4.) *Seller agrees to pay a real estate commission to Ascent Commercial Group, LLC in the amount of \$1,500.00 payable in cash at Closing.*

5.) *Unless expressly waived by Buyer, in writing, Buyer's obligations to purchase the Property are contingent upon entering into an agreement with Vectra Bank for use of Bank's property for a public street and related uses, satisfactory to the City in its sole and subjective discretion.*

Schnitker recused himself at this point in the meeting, due to the reference to Vectra Bank, at 7:39 AM. Larsen chaired the meeting in Schnitker's absence.

6.) *Notwithstanding any contrary provision, this Contract shall not be binding upon Buyer until this Contract is signed by Seller and has been received and approved by the Woodland Park City Council.*

DeVaux did not like the contingency in regard to the Vectra property. DeVaux would like to see in writing that Vectra will sell the land. DeVaux noted that a real estate contract would not usually be signed with a contingency like this. Fleer re-read #5. Fleer noted that the City Attorney put this into the contract to note that the City wants the \$100,000 to be used for the acquisition of the Vectra property. DeVaux did not think that this is what #5 says. It says that the deal does not go through unless Vectra sells the property. Mark Weaver says he thinks that is what #5 does mean; the transaction will not occur unless Vectra sells the property. Fleer said Vectra Bank was not ready to supply anything in writing. Fleer noted that the Board could approve with that contingency being removed and see how Council responds. Weaver asked how long the negotiation is anticipated to last. Fleer thinks a few weeks. Weaver suggested leaving the contingency in the contract but extending the dates. DeVaux asked if the completion of the road was vital to the project. Buttery responded that the City does need the potential to extend the road to West Street, but it does not need to occur before the Aquatic Center is built. Buttery says the language is clear and appropriate. Fleer is in negotiation with Vectra. Vectra is willing to sell the lot, but not sell the connection, but would give an "in perpetuity" easement. Buttery suggested that the DDA could approve the contract contingent on that agreement being reached. Fleer said that the worst case scenario would be that Vectra does not approve the language then this contract does not move forward. This allows us move forward with the Vectra negotiation. Faber asked how we move forward with the development of the property, design review, etc. Buttery said that the City would be acting as a developer and would be held to the same standard as any developer. The City will also have the ability to negotiate with the DDA during the process just like any other developer would. Faber wanted to know if Riley, Planning Department, would be involved. Riley responded, yes, and she is currently developing a list of steps with which the City will have to comply. Fleer added that the Design Review Committee (DRC) will also be involved in the process, and have already been involved. Cummer asked who would sign the agreement. Per Fleer, Merry Jo Larsen, Vice Chair, will sign, as Schnitker has recused himself.

MOTION: To approve the "Contract to Buy and Sell Real Estate" between the City of Woodland Park and the DDA for the purpose of the Aquatic Center, with the extension of

dates as has been discussed today. Larsen/DeVaux. Passed 8-0. (Schnitker not present for this vote)

At 7:51 AM, Schnitker returned to the meeting and resumed chairing the meeting.

EAGLE FIRE LODGE - TIF AGREEMENT: Fler referred to the Memorandum dated May 18, 2015. Fler noted that the agreement is in regard to five additional units to be built at Eagle Fire Lodge. Fler then reviewed the metrics for the TIF agreement as stated in the Memorandum:

The total value of the Eagle Fire expansion is approximately \$280,800. Valued and assessed independently, the expansion will generate approximately \$7,181 in new property taxes, e.g. $\$280,800 \times .29 = \$81,432$ x City Mill Levy (.088187) = \$7,181 in new property taxes generated from the Eagle Fire expansion.

Scott Downs as a member of Downs Family, LLC and as proposed in the TIF agreement will be the sole recipient of the TIF reimbursement [...]

Fler explained that he had discussed the agreement with DDA Counsel, Paul Benedetti. Benedetti has the philosophy that the TIF reimbursement should go with the person/developer, vs. with the project. For example, Ray Hix was the developer for Tractor Supply and has sold the project, yet Hix will receive the TIF reimbursement. Born had previously asked how the lender was protected. That language needs to be included in the note language and usually is. The developer is the one with the skin in the game, and who takes the original risk, so the philosophy is that the TIF follows the developer or person or entity named in the contract. Schnitker asked who pays the property tax. In this case, it would be Downs, but essentially it's the current property owner who pays the tax. The TIF reimbursement is not ever paid unless tax has been paid.

Fler explained that the TIF reimbursement would be 75% for 10 years. At the last meeting it was discussed that the TIF cap be \$60,000, but that has been set for \$65,000 as assessed values go up over a period of time.

Wilson confirmed that even if the property is sold, and someone else is paying the tax, the entity who made the original agreement still received the reimbursement. This is correct.

Fler noted that the five unit expansion would also generate sales tax and lodging tax. Combined sales tax and lodging tax is 12.6%.

Born wanted to know if he there would be a conflict for him in this vote as he is on the Board of Directors of Park State Bank, with which this entity banks. Fler asked if Born would benefit financially. Born would not benefit financially, so does not need to recuse himself.

MOTION: To approve the Redevelopment and Reimbursement Agreement by and between the Woodland Park Downtown Development Authority and Scott Downs. DeVaux/Larsen. Passed 9-0.

WOODLAND STATION DESIGN GUIDELINES – DESIGN REVIEW PROCESS: As a result of the process of the design review process for Lot 2, Fler has had discussions regarding the DDA's design review process with individual Board members. There has been discussion as to how to assist the DRC. Two things emerged from the discussions: Would like to see the City Planning department involved in the process so it's a team approach. Lot 2 design is the first

project going through the Woodland Station design process. The other discussion was to add members to the DRC, which would be up to the Board. Fler is highly focused on process. We need to follow the process that has been set in Design Guidelines, Municipal Code, etc. As you recall, we did approve a default letter for Lot 2, and that was sent to the entity, so they are on the clock. Larsen remarked that Coy and Wilson are doing a great job, and thanked them for keeping the Board informed, and for their diligence. DeVaux noted that the original DRC consisted of three Board members, and the DDA Executive Director, who was at that time also the Planning Director. DeVaux thinks that the Planning Director needs to become involved again. If you read the Design Guidelines, the DRC approves the design, not the DDA Board. DeVaux is not sure he likes that. Possibly the Board needs to have the final approval. There also needs to be an appeal process for the developer. But at this time, all of the burden is on the DRC. DeVaux does not think that was the original intent. Schnitker does not want to have too many layers to get something done. Schnitker does not think we need to be micro-managers. DeVaux asked that if we follow the avenue of involving the Planning Director, will there be an avenue for the developer to appeal to the DDA Board? Fler said that the Resolution doesn't say this, but by policy, Fler suggests that the Board hear the developer. Fler said he would keep the Board apprised on Lot 2 design. Fler asked if the Board wants to expand the DRC. The meetings would need to be posted, but that could be done. Schnitker asked if three would get it done quicker than two. As to posting the meetings, Wilson noted that she and Coy talk often, and they are in constant contact with Riley. They have also conferred with David Langley, Architect. The more people you have, it turns into a Board meeting. Coy said, as someone who has gone through the process, he does not think additional members would facilitate the process. What has helped has been to have professional assistance. Born asked if there would be a potential for a professional consultant. Fler said the committee is already doing this. Schnitker asked if we "are there" with the design, or are we close to it. Coy said we are close, but we are not there. The process is not complete. We are waiting for the final submittal of documents. The DRC provided some comments and we are hoping they will be incorporated in the new documents. Schnitker asked if the City was driving this process. Coy felt that the developer was driving the process, and there are requirements that the developer needs to meet. Schnitker asked how far out we are. Fler suggested Riley review the "Status of Kip Unruh's Project as of May 20, 2015" which Riley distributed. Faber interjected that he is concerned about the process - if we are not going to add members to the DRC, there needs to be a process to report back to the Board and to get feedback from the Board. Committees don't usually operate independently; they get their power from the Board. At a minimum, the communication between the committee and the Board should be increased. Faber felt that if there could be topics appropriate to discuss in Executive Session if they concern the negotiation, the implementation and the possible litigation under a contract. Fler noted that this has been an agenda topic for the last three meetings. This is a policy decision as the process is not well defined within the resolution or the ordinance. Unless directed otherwise by the Board, this will be an agenda topic until resolved. We owe this to the Board and to the DRC and to the development team. As far as Executive Session, this is not a negative report and the public at large can hear the progress.

Noel asked how many projects have used this Design Review process. This is the first project, according to Fler. Woodland Hardware was handled differently. DeVaux noted that the Board met once a week for the first two years, and now we meet once a month. We can't wait a month when a project needs to get done. Faber commented that there were two meetings in May.

Coy remarked that he liked the idea of a committee report mechanism to the Board. Coy would like to get feedback from the Board so that they can properly represent the Board. The DRC would like the Board's feedback and direction.

Schnitker noted that there are currently 10 items on the “Status” list, and he hopes that in two weeks there will be less. If we need to meet more often, we can. As this list changes, Schnitker would like the Board to be kept informed.

Fleer noted that one of the ways to accommodate the request for information for the Board is to schedule work sessions. These have to be public meetings. The DRC, Fleer and Riley meet regularly, but to keep the Board informed, work sessions could be productive. We probably will have two meetings in June.

Fleer asked Riley to review the “Status of Kip Unruh’s project as of May 20, 2015.” Riley noted that this reflects the last six weeks. Riley directed the Board to the final paragraph:

Progress is being made and the August 1st deadline for issuance of a Zoning Development Permit by the Planning Department can be achieved. However, if the revised/complete Site Plan Review package is not submitted by mid-June then the public notifications cannot be done in a timely fashion to make the deadline.

Riley explained that if the complete Site Plan Review package is not received by mid-June, the timeline will be difficult because the complete site plan review triggers the notification process and that is usually a 30-day process. Then, Riley needs to generate a Certification of Approval, which is contingent on the DRC providing their approval. If there is not a consensus between the DRC and the developer, then it’s the role of the Board to be the appeal hearing, so that the Applicant can appeal to the Board. If the Board does not agree with the Applicant, then the Applicant can appeal to the Board of Adjustment. The property owner has to have the opportunity for his position to be heard. At this point, there is a lot of back and forth to get consensus. We need to assure that this is a fair process and that the developer has the due process according to the law.

Riley then went through the ten items on the “Status” document. Riley confirmed that progress has been/is being made. The DRC is to provide comments to the Applicant today. Riley noted that the process being followed is very typical.

Schnitker asked if the comments eventually go away. Riley says they get folded into the final plans. Schnitker asked how many items usually need to be addressed. In a construction set, these are the areas that are often addressed. Schnitker if any items had been completed. Yes, per Riley, many things have been done. Faber clarified, will the Board get a longer list next time. Riley noted that this is a progress report/summary of the past few months.

Fleer asked, if the developer submits the complete package by mid-June, then what?

When the missing items are completed, then Riley does a review of completeness within seven days. Then the property will be posted, and letters will go out to surrounding property owners, giving 15 days for the public to review the package and comment. Meanwhile the staff is doing their final review, along with agency (IREA, Fire, etc.) reviews. Finally, there is a Final Certification and the final sign off from the DRC.

Fleer wanted to define that we are highly engaged. Riley and Fleer will communicate with Unruh today. Fleer’s intent is to make sure Unruh is aware of the urgency. We will bring this back to the Board until complete.

Egbert wants to see Lot 2 come out of the ground.

GENERAL DISCUSSION: Fler introduced Darlene Jensen, new Main Street Coordinator. Egbert is the Chair of Main Street and Wilson is on the Main Street Board.

AUDIENCE PARTICIPATION: Levy noted that he would be representing the City at Fort Carson today regarding a war memorial.

Ray Nunn, of Nunn Construction, is attending today due to his interest in the community and all that's going on in Woodland Park.

Weatherford noted the discussion was not what he thought it would be. The "Design Review Process" turned into "what's going on at Lot 2." Weatherford noted that the Design Guidelines were put together years ago when underground parking, a big plaza, etc. were being proposed. Weatherford was hoping for a discussion on the design guidelines. Weatherford wondered if it was really the intention of the Board that two people on a DRC have control over the design. We need to review the Design Review process. Schnikter noted that Riley has the process working. If there is a disagreement, we are a phone call away, or two days away from holding a meeting if needed. We want this project to come out of the ground, and don't want it to be difficult process.

Debbie Miller announced a Lunch and Learn on Business and Personal Firearm Defense on June 4. Three large events are coming up at Charis in June, July and August. Miller noted that Highway 24 is holding up well during the rains thanks to all the mitigation work by CDOT, CUSP, etc.

Renee Bunting announced the annual Keep Woodland Park Beautiful Clean Up Day on May 30.

Steve Randolph noted that he was on the Design Committee, along with DeVaux, back when Woodland Station first started, and there was a vision for Woodland Station. It's not the same vision today, so do the Design Standards need to be the same? Randolph thinks not. Take a look at what your outcomes are, and consider if this is how you want to continue. Schnikter noted that a lot of the things on the "Status" document are City processes, not DDA processes. Randolph clarified that the DDA design process that was written years ago, are now problematic.

Brooke Smith referred to Resolution 677. The Resolution references a plaza, when there is no longer a plaza. The last paragraph says the guidelines can be amended as deemed necessary, and Smith thinks this needs to be amended.

DeVaux said, in defense of design review, the list that Riley provided are City standards. The City has design standards, and Tractor Supply is a good example of what we want to see in Woodland Park.

Coy felt the it was the DRC's responsibility to make reasonable, rational decisions in assessing the project. There are a lot of things in the guidelines such as fire pits, sculpture, bay windows, etc, that are not in the project. If the Board feels the need to update the guidelines Coy would be willing.

Mark Weaver suggested that there be an architect/professional to take pressure of the DRC. Wilson noted they already do that.

Riley distributed a Trail Ridge Subdivision document. It came to the City's attention by the County Tax Assessor that the boundary was slightly straightened out, and there was not a note on the plat in this regard. Riley would like to include the Fountain Creek tract into the boundary. Riley also discovered a couple of ROW's that were not included in the boundary. Riley will get the DDA Boundary cleaned up in response to these items, and there will be an Ordinance that Council will pass. Riley will keep the Board informed.

EXECUTIVE SESSION: None.

ADJOURNMENT:

MOTION: To adjourn the meeting. DeVaux/Coy. Passed 9-0.

Meeting was adjourned at 8:57 AM.

Recorded by:

Carol J. Lindholm, DDA Staff

APPROVED THIS _____ DAY OF _____, 2015

Al Born, Secretary/Treasurer