

**Mirror Pond Ad Hoc Committee
Minutes
December 2, 2013**

Committee Members Present: Don Horton, Executive Director, BPRD, City Councilor Victor Chudowsky, City Councilor Mark Capell, Ted Schoenborn, BPRD Board, Scott Wallace, Chair, BPRD Board, Mel Oberst, City Community Development Director, Ned Dempsey, Citizen Member and Mike Olin, Citizen Member.

Committee Members Absent: Matt Shinderman, Citizen Member.

BPRD Staff Present: Jim Figurski, Mirror Pond Project Manager, Jan Taylor, BPRD Community Relations Manager and Paula Lowery, BPRD Executive Assistant.

Media Present: Hillary Borrud, The Bulletin, James Williams, The Source and Kandra Kent, KTVZ.

Visitors Present: Pete Loeffler, Scott Stuemke, James Beauchemin, Bing Lantis, Spencer Dahl, Mike McLandress, David Urbonas, Linda Connelley, Dick Connelley, Gary Gettmann, Scott Reich, Lance Sybr, Peter Sussmann, Stan Roach, Pam DiDente, Wade Fagan, Dan Wadosky and Oran Teater.

Committee Chair Scott Wallace called the meeting to order at 3:00 pm.

Ted Schoenborn moved to approve the minutes of the November 13, 2013, meeting. Mark Capell seconded the motion. The motion was approved by a unanimous vote of the committee.

Update on Don Horton and Mark Capell meeting with PacifiCorp

Mark Capell reported the October 25 meeting resulted in very little new information as PacifiCorp was in the midst of conducting an inspection of the dam.

Discussion of Mirror Pond Issue Paper

Don Horton presented the Mirror Pond Issue Paper and reviewed each of the issues to be considered by the committee including: ownership of Mirror Pond; ownership of the PacifiCorp dam; landowner permission prior to dredging, testing or other work involving the land under Mirror Pond; permitting; water rights; planning process; and funding.

Neil Bryant explained several points related to the ownership of water rights. He stated that PacifiCorp's water rights associated with the dam do not include the right for water storage and explained the process to apply for a storage right and transfer of the storage right noting that each step could be subject to an appeal and thereby lengthening the process substantially. He stated the city, park district or other entity could approach the state legislature to establish a special water right allowing for storage to maintain Mirror Pond. Neil advised that the

legislative process would not be subject to appeal and the application process for a storage water right and transfer could be pursued concurrently with the legislative approach.

Neil Bryant reviewed and explained the land ownership associated with the pond, and how the land under the pond was acquired by the McKay Family Trust, and stated that no title insurance was issued on this land. He briefly explained PacifiCorp's property ownership and stated that there is no legal description of the dam.

Presentation by Mirror Pond Solutions, LLC

Todd Taylor, Mirror Pond Solutions, LLC, addressed the committee. He explained the purpose of the LLC he and Bill Smith created to negotiate the purchase of approximately 23.5 acres of land under Mirror Pond to ensure the pond is preserved by a local entity. He estimated the cost to a local government to acquire the land under the pond to be between \$225,000 and \$327,000. He shared different scenarios for creating solutions to ensure the pond is preserved and noted environmental issues that need to be addressed. He stated he is confident they can work with the community to do the right thing.

Additional discussions with PacifiCorp

Mark Capell reported on a November 22 meeting with PacifiCorp and stated as a result of the recent inspection of the dam the company is considering its options with respect to decommissioning the dam including selling the structure. He stated he did not believe PacifiCorp will find a buyer willing to take on the liabilities associated with the dam and expressed concern regarding future negotiations with PacifiCorp. He stated he feels PacifiCorp should repair the dam and donate it to the community, and noted that the city is not willing to accept the dam without repairs and a long-term funding source. He suggested that PacifiCorp engage in an RFP process to determine what the dam would sell for. The committee discussed the impact of an RFP process. Ned Dempsey and Mike Olin expressed concern regarding the risk an RFP process would create for the community in terms of losing the dam. Mark expressed concern regarding future negotiations with PacifiCorp and the need for more specifics about the restoration of the dam. He added that the negotiations with PacifiCorp are based on preserving Mirror Pond, and if that is not the recommendation of the committee there is no need for further negotiation. Following a lengthy discussion the committee reached a consensus to create a recommendation to the city council and park board to be approved in the form of a resolution to preserve Mirror Pond. Ted Schoenborn made a motion to pursue the preservation of Mirror Pond, to further assess the cost associated with preserving the pond, and to continue negotiations with PacifiCorp to pursue ownership of the dam within financial reason. Mark Capell seconded the motion. The motion was passed by a unanimous vote of the committee.

Public Comment

Wade Fagen addressed the committee in support of preserving Mirror Pond. He stated Mirror Pond is an important part of the culture and heritage of the community and is just as important as other art and culture we are trying to import.

Craig Coyner address the committee regarding city council's efforts to rejuvenate downtown Bend when he served as mayor. He stated he appreciates the committee's direction to preserve Mirror Pond. He suggested that the Army Corp of Engineers pay for dredging the pond.

Foster Fell submitted a written proposal to conduct a vote of the community to determine the future of Mirror Pond.

The committee tentatively scheduled a meeting for January 6.

The meeting was adjourned at 4:58 pm.

Prepared by,

Paula Lowery
Executive Assistant
Bend Park & Recreation District