

AGENDA
REGULAR MEETING
BOARD OF DIRECTORS

EAST BAY REGIONAL PARK DISTRICT

Tuesday, September 2, 2014

C. BUSINESS BEFORE THE BOARD

6. BOARD COMMITTEE REPORTS

d. Operations (Thursday, April 24, 2014) (Lane)

Present

Board: Directors Ayn Wieskamp, Carol Severin, Beverly Lane (Chair)

Staff: Jim O'Connor, Anne Scheer, Mimi Waluch, Mark Ragatz, Renee Patterson, Denise Valentine, Shelly Miller, Warren Schultz, Becky Pheng, Carol Victor, Allen Pulido, Kelly Barrington

Guests: Christina Kemp, Kim Grandfield, Rob Grandfield, Nick Dusevic, Clay Breitweiser, Ethan Friedman, Jay Granjai, Benton Carroll, Greg Jackson, Steve Guerrero, Travis Miranda, Richard, Benji Wiesel, Chet Roberts, Amelia Marshall, Philip Pierpont

I. **Update: Drought Contingency Plan for 2014**

Assistant General Manager Jim O'Connor, provided a chronological update as follows:

- February 27, 2014 the District issued a drought contingency plan for the Del Valle Regional Park and Reservoir.
- Response to a letter the District received from Department of Water Resources (DWR) indicating our allocation from the state water pipe would be zero percent of our normal 400 acre feet from the reservoir.
- Operations anticipated suspending reservations in the campground and other facilities, limiting them to the date of June 8, 2014. Instead, Operations extended the reservation period to July 6, 2014.
- The District submitted a letter on April 4, 2014, to DWR requesting an exemption for health and safety reasons to allow us to continue to draw water for our water system at Del Valle.
- April 18, 2014, DWR issued a press release indicating all of the state water project contractors who received a five percent allocation of their normal annual allocation.
- 3-year average calculated at Del Valle for water use is 15 acre feet for public water systems and 117 acre feet on average for irrigation.

AGM O'Connor relayed that DWR is balancing water releases in the Delta to protect listed fish species and drinking water supplies. The District is planning for curtailed operations this

summer at Del Valle. Based on information provided to the District, it is likely that water will be below the launch ramp sometime in August. Water levels are typically kept at maximum until Labor Day but operations will most likely be curtailed before that. The lake is currently at maximum, but DWR is attempting to maximize water storage at Del Valle prior to salinity levels rising in the Delta. Park Supervisor Shelly Miller and staff will need to have continuous conversations with DWR staff regarding the pumping plant, to ensure the lake levels remain at maximum, but do not exceed the maximum due to the significant impacts flooding can have on park facilities.

Director Ayn Wieskamp asked if the District has cut back on irrigation. AGM O'Connor replied that irrigation has been cut back severely. He stated there will be a sequential affect, starting with the east side swim area, the marina, the launch ramp, and then the water treatment system intakes. The Phase 2 plan is for the park to become a trail head. This would occur when the intakes are out of the water. Director Beverly Lane asked at what level the water has to be for the water intakes to become exposed. AGM O'Connor stated that a water level below 678 acre feet is when the option of shutting down is considered. Director Lane stated that she doesn't recall that the District ever had this as an issue before; issues have mostly been on keeping the water level up until Labor Day. She stated the committee should take a closer look at the materials as this is a balance between us, the state, and the water agencies. AGM O'Connor shared that each park has unique situations in terms of its water sources. A park like Garin will remain green as it's on a well system. Director Lane asked that the committee be kept informed.

2. Reconsideration of Watersports and Other Recreational Rentals Request for Proposal (RFP): Del Valle Regional Park

Director Wieskamp announced that as a result of issues raised about her participation in the decision regarding the awarding of the RFP at Del Valle, she has agreed to formally abstain from participating in voting on this matter before the Committee, and when the item comes before the full Board for consideration.

AGM O'Connor stated the account of events of this RFP as follows:

- RFP was originally reviewed at the February 20, 2014 Board Operations Committee meeting.
- The committee, in response to significant public input, recommended the existing concession agreement with Sunrise Mountain Sports (Sunrise) be extended for another three years.
- After the meeting, a protest was filed by Outback Adventures (Outback), who participated in the RFP process, and was the staff-recommended new concession operator. In response to the protest, the Board President referred the item back to the Committee, noting comments regarding the lack of information provided to the Committee members regarding the RFP proposals.

For today's review, staff provided copies of the RFP document posted on November 27, 2013, four proposals received through the RFP process with confidential financial information excluded, public correspondence received as of 10:00 a.m., May 24, 2014 and the Sunrise petition.

AGM O'Connor provided an overview of the RFP process to clear up misconceptions regarding the purpose and intent of the RFP process. He explained the process as follows:

- Private individuals/entities enter into contract with the District to provide services on District property that the District deems outside of its primary functions. In most cases, the job functions related to these specialty operations are not included in the job responsibilities of existing District staff.
- The concession option allows the District to extend its public services with little impact to District resources, and provides an additional source of revenue.
- District concession opportunities are noticed, screened and evaluated in the RFP process.
- All qualified and interested parties can submit a written proposal to operate the selected facility or provide the designated services outlined in the RFP Scope of Work.
- This RFP process provides the current operator and other interested parties the opportunity to compete for the concession, and allows staff to recommend a vendor who will provide the best level of services for the term of the concession agreement.
- In all cases, the intent of the RFP process is to assess the quality and quantity of services, the experiences and background, and the past performance and financial capability of each interested party making a proposal.
- The RFP is not intended to function as an evaluation process for existing operations.

AGM O'Connor conveyed that many respondents had a perception that the District was conducting the RFP process due to the District's unhappiness with the quality of services of Sunrise Mountain Sports, Mr. Grandfield, and his staff. Based on conversations with District staff, this was not the case or the intent of the RFP process.

The role of staff is as follows:

- Make a recommendation to the Board, based on their evaluation of the RFP responses.
- Provide oversight of the concession services by a written concession lease agreement or contract, facility inspections, financial audits, and through ongoing, interactive relationship with the concessionaire. A successful concession operation requires both District staff and the operators be responsive to the questions and concerns of the other.

Revenue & Administration Manager Mimi Waluch reviewed the staff report included in the packet. At the February 20, 2014 Board Operations Committee meeting, staff presented the RFP recommendation for the next term of the water sports and other recreation rentals concession at Del Valle. Staff recommended that the Committee approve and recommend to the full Board a three-year concession agreement with one additional two-year option period to a new operator, Outback, to manage the watersports and other recreational rental concession at Del Valle. At the Committee meeting, in response to significant public support expressed for the existing concessionaire, Sunrise, the Committee recommended that the existing concession agreement with Sunrise be extended for an additional three years. Following the Committee meeting, Outback sent a letter protesting the method of selecting the concession operator. In response to this protest, and noting the lack of information provided at the February Operations Committee meeting regarding the substance of the proposals, the Board President asked that the matter be referred back to the Operations Committee. Ms. Waluch provided the following review on how Sunrise began operating at Del Valle:

- In 2006 the Board of Directors granted Sunrise a one-year concession agreement at Del Valle, with a one-year option to be ending March 2008.
- At the end of the term, Sunrise expressed interest in continuing operation, and was given a three-year extension on the original agreement for the term ending March 2011.
- An additional three-year extension ending March 2014 was granted.
- On November 27, 2013, staff issued an RFP for watersports concession at Del Valle. A copy is available on the website.
- In response to the RFP, the District received proposals from Outback Adventures, Rocky Mountain Recreation, Sunrise Mountaineering, Inc. dba/Sunrise Mountain Sports, and Wheel Fun Rentals.

The staff RFP committee, consisting of the Ms. Waluch, Lakes Unit Manager Warren Schultz, Administrative Analyst Renee Patterson and Lake Del Valle Park Supervisor Ms. Miller, reviewed and evaluated the proposals, checked references, and interviewed the top three concession operators. One submission was beyond the scope expected at Del Valle. Each proposal was evaluated, as stated in the RFP, for the following criteria and scored between zero and five:

- Projected future payments
- Evidence of ability to achieve projects
- Quality of service, both previous quality and quantity of services
- Years of experience and background
- Amount of relevant experience in this field
- Evidence of a variety of experiences in business and financial capability
- Provide services throughout the term of the agreement with adequate strength for startup costs
- The ability to sustain possible losses due to unforeseen events.
- Sources of financing and availability of immediate and back up funds, in addition to their investment of promotion of the venue.
- A proposed enhancement plan for services at the concession
- Evidence of the availability to accomplish the plan.

After the evaluation, the applicants were ranked in the order as follows:

1. Outback Adventures
2. Rocky Mountain Recreation
3. Sunrise Mountain Sports
4. Wheel Fun Rentals

Staff recommended that Outback be selected as the concession operator based on its proposal and proven record of success. Staff was impressed by Outback's commitment to improving existing operations, by building a new rental office facility, and expanding the range of recreational offerings. Outback placed a high priority on increasing participation in various water activities, customer service, staff training, and providing regularly scheduled lessons and tours. Sunrise's proposal offered to continue the current operation, with a focus on kayak rentals. Sunrise's proposal did not include expanded lessons, biking, and watersport offerings that were found in the other three proposals submitted. Sunrise ranked lower because it did not include a significant investment in improving the existing rental office or storage facility.

Park staff documented concerns regarding Sunrise's lack of communication and proper notification when sponsoring events. District policy is that all special events are to be coordinated with park staff and with Peralta Oaks staff. This is to ensure there are no conflicting events, and to provide adequate public safety and park staffing. Staff recommended that the Committee approve and recommend to the full Board a three-year concession agreement with one additional two-year option period for the new operator, Outback, to manage the watersports and other recreational concession at Del Valle.

There is no cost to the District for this action which can anticipate revenue up to \$20,000 annually from Outback. A percentage of total gross monthly receipts will be set aside in a specific Maintenance Fund. This is a new fund that the District will include in all concession agreements, as they are turned over. This fund will help ensure expenditures related to concession maintenance or structural improvements to the site can be addressed.

As an alternate to the staff recommendation, if the Committee recommends continuing with Sunrise, staff suggests that the existing concession agreement be extended for one year with two one-year option periods to be revisited on an annual basis. Staff would then report back to the Committee regarding progress in resolving outstanding issues.

Director Lane sought clarification of the availability of rankings and applications in the RFP process. When someone responds to an RFP, an application is submitted, which includes financial information. The Committee then receives a copy of the applications with rankings and without the financial information in the packet of proposals. She questioned at what point in the RFP process are applications available to the public and what point can someone request to see the rankings. Assistant District Counsel Carol Victor stated the RFP stays confidential until the point where there is a public meeting to approve a concessionaire. The current practice is to give a staff report of what the evaluation was and not give the Board the RFP responses or precise staff ranking. In this case there was a Public Record Act Request and the information was made public. Director Lane stated what is before the Committee at this time is a request that the Committee make a recommendation to the full Board on watersports at Del Valle from the RFP proposals. The Committee had a couple of reports, and some questions, and the Committee is now ready to hear from the public.

The following guests submitted speaker cards to address the Committee on this issue:

Benji Wiezel, a Guide with Outback for the past ten years. He stated that as an employee he's encouraged to improve his training skills with clients and improve the process. He's observed the same treatment to all employees under Outback.

Richard Atwood, a Property Manager for one of Outback's. Mr. Atwood stated that Outback have been his tenants for 9 years, and have paid their rent on time. He expressed that Outback cares about their customers, employees, and the environment.

Travis Miranda, an Oakland resident, and a seasonal District employee. Mr. Miranda expressed his support for Outback at Del Valle and believes Outback can provide a diverse background of people and different activities, especially mountain biking. He stated that Outback is safety and environmentally focused.

Steve Guerrero stated he's enjoyed a partnership with Outback for over ten years, and that Outback has supported their community and various non-profits in the area.

Greg Jackson, a Guide Service Program Director for Outback for over five years. Mr. Jackson stated that Outback is very professional, diverse, and a qualified adventure sports guides service in the Bay Area. If given the opportunity, Outback and he would create a diverse program offering, building a thriving concession at Del Valle.

Benton Carroll, an Oakland resident and certified sea kayak and stand-up paddle board instructor, has been teaching and guiding in the Bay Area for five years. He recently started working with Outback and came to provide his support for Outback and a fair process.

Jay Ganjei, of Outback Adventures expressed his appreciation for the RFP being placed back on the agenda, and for being reconsidered. He stated that it is clearly communicated by the title of the RFP that the District is looking to expand offerings. He relayed that it is important to give more recreational opportunities. In addressing the drought issues, he indicated that Outback has additional locations and can sustain losses. He asks for the Committee's support of this opportunity.

Clay Breitweiser, a park user at Del Valle, states he is an experienced outdoor educator who has worked directly with Outback as a guide and as a partner on paddle sports. He expressed that Outback has a high reputation for professionalism and for personal service. He'd like to see more programs and believes Outback would be a great addition to the park.

Nick Dusevic, an Alameda resident and customer of Outback, stated he experienced his first time paddle-boarding with Outback. He commented that their equipment is well taken care of and that Outback showed a passion for the sport and provided good instruction. He expressed his support for Outback and believes they would be great for East Bay Regional Parks.

Kim Grandfield with Sunrise shared and commented on photos he submitted. He also commented on the proposal submission with the Committee. He stated that, in 2006, Sunrise painted and added a shade structure to one of the containers with the District's permission to do so. In 2009, with the District's permission, Sunrise added twelve feet to the footprint of concession. In 2011, with the District's permission, Sunrise purchased another container and combined it with an existing container, and attached a roof and siding. He mentioned that overall they invested \$12,000 to \$15,000. Mr. Grandfield pointed out that there used to be electricity at the concession prior to his arrival. He asked numerous times to have the electricity restored. He's been told recently that it wasn't an option at this time. He explained that it's an issue to have to bring batteries and generators and also keep gasoline onsite. He mentioned the several watersports professionals in the Bay Area who support Sunrise over Outback.

Christina Kemp with Outback expressed that the Outback's main focus is to encourage more people to get outdoors. Ms. Kemp mentioned the expansion into bicycles, wind sports, horse shoe rentals, and kids adventure camps. She stated that these additional sports and programs would assist in bringing in revenue with the existing drought conditions. Outback proposes to purchase a new facility. She stated that they are one of the longest running multi-sport concessions in the Bay Area.

Director Lane explained that, in the RFP information, it's very clear that the Committee makes the recommendation and the Board makes the final decision. The decision is based on what is reasonable, and in this setting the Committee was pleased to have more information to review.

The rankings are important, as well as public presentation and support. She stated it's clear Sunrise could be doing some things better, and it is not automatic that an existing concessionaire is chosen in this process. The message that went out was that whoever is the concession operator, the Park Supervisor is in charge. She appreciates the recommendation of the staff to select Outback. Director Lane moved that the Board Operations Committee approve and recommend to the full Board staff's to continue the existing concession agreement with Sunrise for one-year with two additional one-year options. Director Severin seconded the motion, which passed unanimously.

5. Public Comments

There were no public comments

6. AGM Comments

There were no AGM comments

7. Board Comments

Director Lane commented that, going forward, a different level of information needs to be provided to the Committee, especially with the larger RFPs. In response to Director Lane's question on the Board seeing the rankings privately before the meeting, District Counsel Victor stated her opinion is that it would become a public record, once it's given to the Board.

8. Adjournment

The meeting adjourned at 2:00 p.m. The next Board Operations Committee meeting is scheduled for 12:45 p.m. on **Thursday, May 15, 2014**, in the Board Room, Peralta Oaks.

Respectfully submitted,

Denise Valentine
"Acting" Executive Secretary
Operations Division