



## Tualatin Hills Park & Recreation District Minutes of a Regular Meeting of the Board of Directors

A Regular Meeting of the Tualatin Hills Park & Recreation District Board of Directors was held on Tuesday, February 13, 2018, at the HMT Recreation Complex, Dryland Training Center, 15707 SW Walker Road, Beaverton, Oregon. Executive Session 6 pm; Regular Meeting 6:30 pm.

Present:

Ali Kavianian <i>(via telephone)</i>	President/Director
Felicita Monteblanco	Secretary/Director
John Griffiths <i>(via telephone)</i>	Secretary Pro-Tempore/Director
Holly Thompson	Director
Doug Menke	General Manager

### **Agenda Item #1 – Executive Session (A) Legal (B) Land**

Secretary Felicita Monteblanco called executive session to order for the following purposes:

- To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed, and
- To conduct deliberations with persons designated by the governing body to negotiate real property transactions.

Executive session is held pursuant to ORS 192.660(2)(e) and (h), which allows the board to meet in executive session to discuss the aforementioned issues.

Secretary Monteblanco noted that the news media and designated staff may attend executive session. Representatives of the news media were directed not to disclose information discussed during executive session. No final action or final decision may be made in executive session. At the end of executive session, the board welcomed the audience into the room.

### **Agenda Item #2 – Call Regular Meeting to Order**

A Regular Meeting of the Tualatin Hills Park & Recreation District Board of Directors was called to order by Secretary Felicita Monteblanco on Tuesday, February 13, 2018, at 6:30 pm.

### **Agenda Item #3 – Action Resulting from Executive Session**

There was no action resulting from executive session.

### **Agenda Item #4 – Presentations**

#### **B. Cedar Mill Creek Flood Remediation Collaborative**

General Manager Doug Menke introduced Nora Curtis, Conveyance Systems Department Director for Clean Water Services; Andrew Singelakis, Director of Land Use & Transportation for Washington County; and, Bruce Barbarasch, superintendent of Natural Resources & Trails Management, to make a presentation regarding the Cedar Mill Creek Flood Remediation Collaborative, a partnership of agencies, businesses, and other interested organizations in Washington County working together to address flood risks within the Cedar Mill Creek and North Johnson Creek corridors.

Nora, Andrew and Bruce provided a detailed overview of the collaborative's work via a PowerPoint presentation, a copy of which was entered into the record, and which included the following information:

- In June 2017, the Cedar Mill Creek flood remediation was chosen as an Oregon Solutions project by the governor. Washington County and THPRD were designated by the governor as co-conveners on the project.
- Roles and responsibilities for the key partner agencies, including THPRD, which is a landholder in the affected area with several large open space, wetland and park areas.
- Multiple committees inform the collaborative, including a project team, steering committee, community engagement team, and four technical advisory subcommittees.
- The current project schedule estimates the Declaration of Cooperation to take place in September 2018.

The presenters offered to answer any questions the board may have.

Holly Thompson asked for confirmation that the potential funding and governance portions of the project would essentially operationalize how to collectively implement the identified solutions.

- ✓ Nora confirmed this and provided some examples of potential situations that the Governance & Finance technical advisory subcommittee could be charged with exploring.

Felicita Montebalanco asked for additional information regarding the community outreach for this project.

- ✓ Nora replied that community outreach would take place throughout the entire process, noting that to date there has been a significant outreach effort, including a survey distributed to a number of organizations at the end of 2017/beginning of 2018. As the collaborative moves through the next phase of identifying potential strategies and options, there will be another significant and targeted outreach effort. A community engagement consultant has been hired and will work with the community engagement team which consists of staff from Washington County, Clean Water Services and THPRD.

Nora commented that flooding risks within the Cedar Mill Creek and North Johnson Creek corridors have been a long-standing issue and that if it were an easy problem to solve, it would have been addressed a long time ago. The state has stepped in to recognize that this is not just one entity's issue, nor is it an issue solely the responsibility of private property owners, but needs to be addressed via a cross-jurisdictional strategy.

- ✓ Holly expressed agreement, noting that the problem is not owned by one party, but collectively impacts everyone in the area, therefore all parties need to come together to work on the solution. She appreciates Oregon Solution's approach and thanked the staff that will be participating in this effort.
- ✓ General Manager Doug Menke recognized Nora and Andrew, noting that THPRD was pleased to hear that this issue was selected as an Oregon Solutions project as every hard rain is followed by phone calls from THPRD residents concerned about flooding issues. THPRD is looking forward to seeing some real solutions identified through this process.

#### **A. City of Beaverton Downtown Development Update**

General Manager Doug Menke introduced Tyler Ryerson, Senior Development Project Manager for the City of Beaverton's Community Development Department, to make a presentation regarding the city's work in redeveloping the downtown area.

Tyler provided a detailed overview of recently completed and current development projects in downtown Beaverton via a PowerPoint presentation, a copy of which was entered into the record, and which included the following information:

- Various planning documents have informed these development activities, including the Beaverton Community Vision Plan, Civic Plan, and the Housing Five Year Action Plan.
- An Urban Renewal District was approved by voters in 2011 with a maximum indebtedness of \$150 million.
- Current development activities in central Beaverton include the Beaverton Center for the Arts, multifamily housing, a new public parking garage and a hotel.
- Recently completed development in central Beaverton includes four multifamily housing complexes, as well as the storefront and tenant improvement programs.
- Cedar Hills Crossing is also undergoing redevelopment with three phases currently in process and additional phases to follow.

Tyler offered to answer any questions the board may have.

President Kavianian commented that THPRD, as a special district, has been participating with the city in these development projects through various tax abatement programs, such as the Central Beaverton Urban Renewal District, affordable housing, the enterprise and vertical housing zones, and other collaborations. He asked district staff what the dollar amount is of THPRD's participation in these programs in collaboration with the city.

- ✓ Keith Hobson, director of Business & Facilities, replied that of the programs mentioned, urban renewal is by far the largest; for FY 2016/17, THPRD's participation was \$181,000. The other programs are smaller, but include \$16,000 in affordable housing to the City of Beaverton and \$31,000 to Washington County. Total tax abatement for FY 2016/17 from THPRD equaled approximately \$245,000. The totals for FY 2017/18 are not yet available, but support for urban renewal has increased. Keith clarified that these amounts do not represent tax revenue being taken away from THPRD, but rather tax revenue growth that THPRD is not receiving and won't receive until the programs expire.

Holly Thompson referenced her employment with the City of Beaverton, commenting that the model used for Beaverton's urban renewal district was considered a state-wide model in terms of collaboration, one in which every jurisdiction impacted by the plan was invited to participate in the development of the plan. She recounted Beaverton's 1970's urban renewal program that resulted in projects indispensable to the area today, including major transportation projects, and described the current discussions taking place regarding bringing urban parks into the Beaverton core and presenting a more welcoming face to the city's diverse communities. She expressed the need to keep the current momentum while there is such a great spirit of partnership and collaboration between the city, THPRD and other local jurisdictions.

John Griffiths questioned what the current efforts are in establishing urban parks to serve the new residents living in the multifamily housing complexes assisted by the various tax abatement programs. He asked how the city and district can work together to identify property that can be jointly pursued in order to serve the needs of those new residents.

- ✓ Tyler explained that public amenities were prohibited from being funded through the urban renewal plan.
- ✓ Keith referenced his service on the urban renewal advisory committee, noting that one of the goals of the urban renewal program was to incentivize assessed value growth, which is not accomplished by adding more public facilities. However, THPRD staff is having active conversations with city staff regarding acquisition opportunities in the downtown area, as the board is kept informed during executive session. He can confirm that there is interest on both sides in facilitating this, as is evidenced by the joint tour arranged by city staff of urban parks in downtown Portland.

Felicita Montebianco complimented the collaboration between the city and THPRD, noting that the night market hosted by the city is a great representation of the area's diverse communities.

## **Agenda Item #5 – Appeal Hearing: Cedar Hills Park Redevelopment Project Contractor Prequalification**

### **A. Open Hearing**

Secretary Monteblanco opened the appeal hearing for the Cedar Hills Park Redevelopment Project Contractor Prequalification.

### **B. Staff Report**

Gery Keck, superintendent of Design & Development, provided an overview of the memo included within the board of director's information packet regarding THPRD's contractor prequalification process and district staff's decision to deny Benchmark Contracting as a prequalified general contractor for the Cedar Hills Park Redevelopment project.

Gery referenced the following documents provided to the board at their places, copies of which were entered into the record: findings, THPRD's Request for Qualifications, Benchmark Contracting's original prequalification submittal, THPRD's letter of notice to Benchmark Contracting, and Benchmark Contracting's appeal of the disqualification letter.

Gery noted that the district advertised the prequalification on December 1, 2017, and that 10 applications were received on January 5, 2018. Three contractors were determined to be not qualified, one of which was Benchmark Contracting. Staff received the appeal from Benchmark Contracting on January 21, 2018. The request this evening is for the board to conduct an appeal hearing to review staff's decision to deny Benchmark Contracting as a prequalified contractor to bid on the Cedar Hills Park Redevelopment project.

Gery noted that district staff met with Benchmark Contracting's owner, Kelly Fitzpatrick, on January 25, 2018, to discuss the prequalification further and accept any additional information for consideration. Prior to this meeting, staff provided Mr. Fitzpatrick with notice of the concerns so that he would be aware of what additional information would be beneficial for staff's review. Based on the additional information provided by Mr. Fitzpatrick, staff reevaluated Benchmark Contracting's application and concluded to reaffirm the decision to deny Benchmark Contracting as a prequalified bidder for the project.

Gery provided an overview of the three primary concerns staff had in reviewing Benchmark Contracting's prequalification application:

1. Benchmark Contracting's working capital. Staff anticipates the general contractor's scope of work for the Cedar Hills Park redevelopment project to be between \$6-7.5 million. Staff believes that a reasonable amount of working capital for a project of this complexity is three months of potential invoicing. Staff used the lower project valuation of \$6 million and determined the working capital needs to be a minimum of \$1 million. Based on information provided by Benchmark Contracting, staff determined they have a working capital of \$1,031,024 when including a \$250,000 line of credit. This is just over the minimum amount desired based on the lower project valuation, and only if this is Benchmark Contracting's sole project.
2. Benchmark Contracting's level of employees. Based on the district's recent experience with Mountain View Champions Park, staff anticipates a minimum of three highly-trained project engineers or managers would be needed to successfully handle the Cedar Hills Park redevelopment project. To meet staffing needs, Benchmark Contracting would be required to seek additional help to manage the project. Mr. Fitzpatrick stated his intent to hire an additional professional staff if awarded this project. Staff does not have any guarantee that additional help would be hired. In addition, hiring additional staff would reduce Benchmark Contracting's working capital.

3. Benchmark Contracting's lack of experience in performing a project of this magnitude. While Benchmark Contracting recently completed two THPRD projects, those projects were much smaller in size and complexity. Benchmark Contracting's largest completed project as a prime contractor was a \$1.8 million project at Grant High School. In staff's meeting with Mr. Fitzpatrick, he suggested the district consider all his work in the past 18 months because that shows they have completed approximately \$5.1 million in construction contracts and he believes that overseeing one project would be easier than the 21 smaller projects over 18 months. However, staff believes the role of the general contractor managing a large complex project to be more demanding than that of a general contractor managing smaller jobs or as a subcontractor.

Gery concluded the staff report by noting that staff recommends the board, acting as the local contract review board, concur with staff's findings to deny Benchmark Contracting as a prequalified bidder for the Cedar Hills Park Redevelopment project, adding that this disqualification does not preclude Benchmark Contracting from being a subcontractor on the project or as a general contractor for future THPRD projects. Gery offered to answer any questions the board may have.

President Kavianian commented that he understands staff's concerns regarding working capital and work load experience.

Holly Thompson asked whether the desired capital and staffing levels were noted in the Request for Qualifications.

- ✓ Gery replied that they were not.

Holly asked for confirmation that the Request for Qualifications outlines the information being requested from the potential contractor; not necessarily the desired thresholds or targets.

- ✓ Gery confirmed this.

### **C. Appellant Comments**

Joe Yazbeck, the attorney representing Benchmark Contracting, introduced his client, Kelly Fitzpatrick, owner of Benchmark Contracting. Mr. Yazbeck commented that, after hearing this evening's testimony from his client, he hopes the board will find that Benchmark Contracting is qualified to bid on the Cedar Hills Park redevelopment project. A binder titled "Appeal of Benchmark Contracting" containing supporting documents was entered into the record.

Mr. Yazbeck inquired of Mr. Fitzpatrick's educational background.

- ✓ Mr. Fitzpatrick replied that he has a Bachelor of Science degree in Construction and Engineering Management from Oregon State University.

Mr. Yazbeck asked who Robinson Construction is and how long Mr. Fitzpatrick worked for them.

- ✓ Mr. Fitzpatrick replied that Robinson Construction is a fairly large, local contractor that has annual revenue of over \$100 million. He worked for them for approximately 11 years, starting as a laborer and working his way up to general superintendent overseeing all of Robinson Construction's site work operations. During his employment with Robinson Construction, he worked as superintendent and project manager on the City of Sherwood's Sunset Park Project, now known as Snyder Park, which was a very similar project to the Cedar Hills Park redevelopment project, including many of the same project elements. He disputed district staff's claim that three highly-trained project engineers or managers would be needed to successfully handle the Cedar Hills Park redevelopment project, noting that for the Sunset Park Project, he had only himself and a couple of project engineers that he trained during the project to help him with paperwork.

Mr. Yazbeck asked whether any information was noted within the THPRD Request for Qualifications about the contractor needing to fund the project for three months.

- ✓ Mr. Fitzpatrick replied that there was not. The first he heard of that requirement was during his meeting with district staff on January 25, 2018. In his opinion, it is an arbitrary number that makes no sense. While he agrees there are expenses that the contractor will be expected to carry, such as payroll and some materials, the industry standard for any contract between a general contractor and a subcontractor has language stating “paid when get paid” which means if Benchmark Contracting were awarded the contract with THPRD, they would not be obligated to pay their subcontractors until receiving payment from THPRD. In addition, Benchmark Contracting met the dollar threshold as stated by district staff even though it is irrelevant as no contractor should ever have to fund a public works project for three months.

Mr. Yazbeck referenced tab six of the binder and asked what Benchmark Contracting’s payment history has been with THPRD on its previous two projects with the district.

- ✓ Mr. Fitzpatrick replied that Benchmark Contracting was a general contractor for two projects with THPRD in 2016: the Westside to Waterhouse Trail project and the Conestoga Middle School synthetic turf field conversion project. Industry standard for projects of those durations, as well as the duration of the Cedar Hills Park redevelopment project, is for the general contractor to submit monthly payment applications on the percentage completed based on a schedule provided at the beginning of the project. State statute requires prompt payment from public agencies to general contractors within 30 days or the agency is obligated to pay interest. The full invoice recording as provided on tab six in the binder shows payments received promptly from THPRD, in some cases taking less than 30 days. He questioned why a contractor would be required to finance an entire project for three months if THPRD pays promptly as shown.

Mr. Yazbeck referenced tab one of the binder, which contains a letter dated December 20, 2017, from The Guarantee Company of North America USA to THPRD.

- ✓ Mr. Fitzpatrick noted that this letter was a requirement in the THPRD Request for Qualifications. It is a letter from Benchmark Contracting’s bonding company indicating their bonding capacity. The letter alone should satisfy any concerns on behalf of THPRD. Any public contract over \$100,000 in Oregon is required to have a bond. When a project is bonded, a payment bond and a performance bond are provided. When he met with district staff on January 25, 2018, he asked staff what their primary concern was in contracting with a company the size of Benchmark Contracting. The response was a fear of the potential for a lien on park property. He informed staff that no one can file a lien on park property, which is the reason for the bonding. The performance bond guarantees that if the contractor does not fulfill the obligations of the contract, that the bonding company would step in and see the project through. If the contractor finished the project but failed to pay the subcontractors, their recourse would be to file a lien against the bond. The bond provides financial security to the agency that the project will be completed at the stated price and that everyone involved will be paid. Additionally, district staff has expressed concern regarding change orders exceeding the aggregate amount of the bond. Once the bonding company issues the bond, they are obligated to see that project through regardless of the amount of change orders. It is in the best interest of the general contractor to see the project through without involvement of the bonding company. If the bonding company needs to step in to take over the project, their recourse is to recover their costs through the business and personal assets of the business owner. He noted that the bond that has been provided for Benchmark Contracting is for \$10 million per project and \$10 million aggregate. The Cedar Hills Park redevelopment project was, in his opinion, overvalued at \$7-9 million.

Mr. Yazbeck referenced tab two of the binder, which contains a balance sheet for Benchmark Contracting.

- ✓ Mr. Fitzpatrick explained that this balance sheet reflects the significant assets and equity for Benchmark Contracting and small amount of debt for a company their size. The balance sheet attests to the district's requirement that the contractor have over \$1 million in working capital available.

Mr. Yazbeck inquired how much Benchmark Contracting currently owes on its line of credit.

- ✓ Mr. Fitzpatrick replied that Benchmark Contracting owes nothing on its line of credit.

Mr. Yazbeck inquired whether Mr. Fitzpatrick has personal funds in addition to company funds that could be used if necessary.

- ✓ Mr. Fitzpatrick confirmed this, noting that he is the 100% shareholder of Benchmark Contracting. Although the THPRD Request for Qualifications did not ask for his personal financial information, as indicated with the bonding program, he would access his personal funds in order to fund the project if necessary, although he has never had to do this for past projects.

Mr. Yazbeck referenced tab three of the binder, which notes Benchmark Contracting's Experience Modification Rate (EMR) of 0.79.

- ✓ Mr. Fitzpatrick explained that every company in Oregon is required to carry Workers' Compensation Insurance. He explained how the EMR is calculated, noting that Benchmark Contracting's rate of 0.79 is very low, which is indicative of a commitment to a safe work environment.

Mr. Yazbeck referenced tab four of the binder which includes Benchmark Contracting's completed Performance and Integrity section of the THPRD Request for Qualifications. He asked whether Benchmark Contracting answered yes to any of the questions.

- ✓ Mr. Fitzpatrick explained that the only question that was answered in the affirmative was regarding a change in business name. The company name was changed from Benchmark Contracting to Benchmark Contracting, Inc. They have an outstanding performance reputation with all of the public agencies they have worked for, including Washington County Department of Land Use and Transportation, Portland Public Schools, and Tigard-Tualatin School District. Benchmark Contracting is continually sought out by these agencies which attest to their credibility and performance on projects.

Mr. Yazbeck inquired whether Benchmark Contracting's projects for THPRD in the past were successfully completed.

- ✓ Mr. Fitzpatrick confirmed this.

Mr. Yazbeck asked whether Mr. Fitzpatrick believes that the Cedar Hills Park redevelopment project would ultimately be bid for \$6 million worth of construction work.

- ✓ Mr. Fitzpatrick replied that he believes that the project's value has been overstated since the beginning in order to deter small contractors such as Benchmark Contracting from bidding. He explained that there are a lot of owner-provided items for the project, including the synthetic turf, lighting, and splash pad, which are likely to equal \$2 million in assets that won't be in the general contractor's contract. Additionally, he referenced the district's latest large project, Mountain View Champions Park, which had a contract of approximately \$8.7 million for a 22-acre site. When prorating that amount to a 12-acre site, which is the size of Cedar Hills Park, it equals just under \$4.8 million. He estimates that the project would ultimately be bid at between \$5-6 million.

Mr. Yazbeck referenced tab five of the binder, which is a Contract Receivables Report provided by Benchmark Contracting.

- ✓ Mr. Fitzpatrick noted that this report was provided to district staff at the meeting on January 25, 2018. At the time, he estimated that the Cedar Hills Park redevelopment project would be an 18-month project. The information provided in tab five shows an 18-month period of Benchmark Contracting's contracted projects from May 2016 to October 2017 that reflects contracts totaling almost \$6 million. Of that \$6 million, \$5.1 million was completed in that 18-month period, demonstrating that Benchmark Contracting has no problems in taking on a work load of \$5-7 million. In addition, he provided bank statements from Benchmark Contracting's line of credit to show that during that 18-month period, while the line of credit was accessed, it was minimal and likely due to a large asset purchase. At the end of the 18-month period, the line of credit was back to a zero balance. He described a project Benchmark Contracting completed for Grant High School with a value of \$1.8 million in 4.5 months. If that project was prorated into a 17-month period, it would equal \$6.5 million. Another similar project was completed for Wilson High School. He noted that school projects are great examples of projects that need to be completed on schedule in a short amount of time. This demonstrates that Benchmark Contracting has no problem completing high-dollar projects with demanding schedules.

Mr. Yazbeck asked whether Benchmark Contracting could hire additional staff if needed.

- ✓ Mr. Fitzpatrick confirmed this.

Mr. Yazbeck asked whether the THPRD Request for Qualifications noted a necessary staffing level.

- ✓ Mr. Fitzpatrick replied that it did not, noting that a lot of prequalification applications require contractors to identify who their superintendents and project managers are going to be. The THPRD Request for Qualifications did not ask for such information.

Mr. Yazbeck asked Mr. Fitzpatrick what he believes the THPRD Board of Directors should conclude after hearing this evening's evidence.

- ✓ Mr. Fitzpatrick replied that all of the contractors that were prequalified for the Cedar Hills Park redevelopment project have annual incomes of over \$100 million. He stated that Benchmark Contracting is never going to be that size, but what THPRD would receive from Benchmark Contracting that they wouldn't from the larger contractors is the owner on the job every day. Benchmark Contracting has proven its ability to meet the capital threshold desired, bonding capacity, and work history. In addition, he believes that THPRD is in danger of limiting competition through this process. The Mountain View Champions Park project prequalified twelve contractors, two of which submitted bids. The industry is even busier today. He described the cost ramifications of a limited bid pool, especially for projects this size, and questioned whether a limited bidding pool results in the best use of taxpayer funds. In conclusion, he requested that the THPRD Board of Directors prequalify Benchmark Contracting as a bidder for the Cedar Hills Park redevelopment project.

#### **D. Board Discussion**

Holly Thompson asked for additional information regarding the contract value for the Cedar Hills Park redevelopment project.

- ✓ Keith Hobson, director of Business & Facilities, replied that there is potential for some owner-provided items. However, it is premature to assume that all will be owner-provided. The project is on a very tight timeline due to the coordination with the Beaverton School District. If THPRD is able to procure the items in a timely manner and have them available for the project, then they would be owner-provided. But this is not a certainty.



- ✓ Gery Keck, superintendent of Design & Development, noted that the potential value of the two largest owner-provided items (synthetic turf and lighting) would be approximately \$900,000, not the \$2 million identified by the appellant. The splash pad equipment is estimated to be \$150,000 and the district is not intending to owner-provide it.

Felicita Monteblanco asked for clarification regarding the project timeline.

- ✓ Gery replied that the 18-month construction timeline is accurate, noting that the anticipated completion date for the project is fall 2019, which is when the school will open. Gery described the complexity of the project in that there will be three general contractors on site at the same time, including the Beaverton School District's general contractor and a general contractor for the transportation project taking place on Cedar Hills Boulevard and Walker Road.

Felicita referenced the appellant's comments that THPRD is attempting to deter small contractors from bidding on large projects. She asked in what ways the district supports small contractors.

- ✓ Keith replied that the intent of the prequalification process is not to eliminate competition, but only to determine in advance of the bid whether a contractor would be submitting a responsible bid. Ways in which THPRD supports small contractors includes its Minority, Women and Small Emerging Businesses program. In communications with the appellant, district staff referred him to several upcoming project bids in which they hope Benchmark Contracting will participate.

Mr. Yazbeck reiterated his client's concerns regarding THPRD's expectation that the general contractor have 90 days of working capital for the project, especially when such a requirement was not noted within the THPRD Request for Qualifications. He believes the 90-day provision is a tool to disqualify a small contractor as there is no circumstance in which that amount of capital would be necessary.

President Kavianian explained that the prequalification process is not necessarily about Benchmark Contracting's experiences as a company or their ability to handle the work load. While he can appreciate Benchmark Contracting's previous work history and how that history could be prorated to match the Cedar Hills Park redevelopment project, the value of this project is in the range of \$6 million and the largest project Benchmark Contracting has completed had a value of \$1.8 million. Whether Benchmark Contracting has the working capital needed is also a concern when it comes to a project of this size. While he appreciates Mr. Fitzpatrick's experience with Robinson Construction, that is his personal experience with a company that completes over \$100 million of projects annually; this is not Benchmark Contracting's experience. Lastly, he questioned the ramifications if something unexpected were to happen to Mr. Fitzpatrick during a project with such a long duration that rendered him unable to continue work on the project. For a contractor the size of Benchmark Contracting, that would impact the continuity of the project regardless of additional staff being hired. He believes THPRD staff has done a good job of going through the process and reviewing the prequalification requests received.

Holly Thompson asked what the process is once a contractor is prequalified for a project.

- ✓ Keith replied that once the district has gone through a prequalification process for a project, all of the bids received from those prequalified contractors are de facto responsible bids so the bid award would be based only on the factor of price.

John Griffiths expressed agreement with Ali's comments, noting that the guidelines staff are using were put in place for a reason, in order to mitigate risk. The bigger the project, the more risk there is to the district. Established minimums are one of the ways to mitigate this risk and have nothing to do with the capabilities of a company to do that work. He understands that Benchmark

Contracting has done some good projects for THPRD in the past and he hopes they will be able to do more in the future. However, the guidelines for this particular project are there for a reason and the district needs to be able to move forward with as much confidence as possible given the size of the project.

Felicita Monteblanco expressed agreement with Ali and John's comments, noting that she appreciates the work Benchmark Contracting has done for the district in the past and hopes THPRD has the opportunity to work with them again in the future. However, she acknowledges and defers to the lens that staff brings to their recommendation.

Upon attempting to interject repeatedly, General Manager Doug Menke requested that Mr. Fitzpatrick respect that this portion of the appeal hearing is dedicated to board discussion and that the board will address him directly if they have questions.

Holly Thompson noted that this process has been illuminating in that there might be an opportunity moving forward to clarify within the application what district staff is looking for from potential contractors. She appreciates the amount of effort, time and expense on the part of the contractors that go into responding to such requests. She noted that Mr. Fitzpatrick was persuasive in giving her pause when considering the competition aspect of this process and the openness and ability for all firms of all sizes to participate. However, she also believes that district staff made good points about the size and scope of this particular project. While this was a difficult decision for her, she respects the decision of district staff.

David Doughman, district legal counsel, provided an overview of the next steps should Benchmark Contracting wish to pursue this matter further, noting that it can be brought to circuit court. The standard for review via circuit court is a high bar in that the decision of the district is to be upheld unless involving fraud or a patent mistake of the figures being presented this evening. A reasonable disagreement on the figures could exist between THPRD and Benchmark Contracting, but the law gives the district the benefit of the doubt when reviewing such information. However, it is Benchmark Contracting's right to appeal this decision further.

#### **E. Close Hearing**

Secretary Monteblanco closed the appeal hearing for the Cedar Hills Park Redevelopment Project Contractor Prequalification.

#### **F. Board Action**

**Felicita Monteblanco moved that that the board of directors, acting as the Local Contract Review Board, concurs with staff's findings to deny Benchmark Contracting, Inc. as a prequalified bidder for the Cedar Hills Park redevelopment project. Holly Thompson seconded the motion. Roll call proceeded as follows:**

<b>John Griffiths</b>	<b>Yes</b>
<b>Ali Kavianian</b>	<b>Yes</b>
<b>Holly Thompson</b>	<b>Yes</b>
<b>Felicita Monteblanco</b>	<b>Yes</b>

**The motion was UNANIMOUSLY APPROVED.**

#### **Agenda Item #6 – Audience Time**

There was no testimony during audience time.

#### **Agenda Item #7 – Board Time**

Holly Thompson commented on a partnership event she attended between the Tualatin Hills Park & Recreation District, Tualatin Hills Park Foundation, Portland Parks & Recreation, Portland

Parks Foundation, and the National Recreation and Park Association (NRPA). Leon Andrews, Chair of the NRPA Board of Directors, was the speaker and guest of honor.

Felicita Monteblanco provided a brief overview of a THPRD staff event held with Mr. Andrews where he met with and spoke to THPRD's future leaders in parks and recreation.

#### **A. Committee Liaison Updates**

Felicita Monteblanco reported on the recent activities of the Tualatin Hills Park Foundation Board of Trustees, noting that the trustees took action at their last meeting to close out the capital campaign account for the Mountain View Champions Park project. The trustees also took action to establish the program fund for people experiencing disabilities.

Felicita also noted that at the last joint advisory committees meeting, two grants were approved: one for outdoor fitness equipment and another for interpretive signage in parks.

#### **Agenda Item #8 – Consent Agenda**

**Holly Thompson moved that the board of directors approve consent agenda items (A) Minutes of January 9, 2018 Regular Board Meeting, (B) Monthly Bills, (C) Monthly Financial Statement, (D) Resolution Authorizing Land and Water Conservation Fund Grant Application for Bridge Replacement at Commonwealth Lake Park, (E) Resolution Authorizing Land and Water Conservation Fund Grant Application for New Neighborhood Park Development at Crowell Woods, and (F) Resolution Authorizing Local Government Grant Program Application to Replace Play Equipment at Butternut Park. Ali Kavianian seconded the motion. Roll call proceeded as follows:**

<b>John Griffiths</b>	<b>Yes</b>
<b>Felicita Monteblanco</b>	<b>Yes</b>
<b>Ali Kavianian</b>	<b>Yes</b>
<b>Holly Thompson</b>	<b>Yes</b>

**The motion was UNANIMOUSLY APPROVED.**

#### **Agenda Item #9 – Unfinished Business**

##### **A. THPRD Board Member Appointment Process**

General Manager Doug Menke noted that staff requests board discussion this evening regarding the continuation of the appointment process for filling a vacancy on the THPRD Board of Directors, Position #2. Applications for the position were accepted from January 17 through February 7, and 26 applications were received for the board's consideration. Staff has provided, for the board's consideration, a scoring tool to use when reviewing the applications. Currently, the board is holding the date of March 6 to conduct interviews with selected candidates. The board has indicated a preference to appoint the selected individual at the March 12 Regular Meeting with the new member's term effective beginning April 1, 2018.

Felicita Monteblanco commented on the value of interviewing all applicants, even if some interviews are conducted over the phone based on the scoring tool provided by staff.

Holly Thompson expressed agreement with Felicita's comment regarding the value in interviewing all applicants and believes it is the right thing to do, especially after providing similar direction to staff during the advisory committee member appointment process. Due to the time commitment in interviewing 26 people, she suggested the possibility of establishing an interview subcommittee to conduct 15-minute phone interviews, in addition to the entire board completing the scoring tool, in order to narrow the field for in-person interviews with the full board.

President Kavianian stated that he believes the applicant pool should be filtered first by removing any applicants who submitted an incomplete application. He noted that it is not fair to the board or to the other more qualified applicants to spend time on those who did not meet the minimum qualifications. A subcommittee may have unintended bias and could potentially filter applicants that are desirable to the other board members not on the subcommittee. He welcomed any of the applicants to reach out to the board members individually through this process, as well.

Felicita questioned whether having shorter interviews may enable the board to interview every applicant. She noted the board's commitment to equity and inclusion, as well as the fact that the applicants are community members asking to engage and that this is the board's opportunity to learn more about them. She is concerned that not everyone can adequately promote themselves in a written format, especially if English is not their first language. Additionally, some of the interview questions developed for this process came directly from the board's recent retreat and are reflective of important information that she does not want to see go unanswered.

President Kavianian reiterated his suggestion that staff review the applications for missing information, adding that after that the board could conduct individual scoring exercises to further narrow the applicant field. He hopes that someone who is not granted an interview through this process would not turn their back on the district; however, if the board takes on 26 interviews, they are essentially limiting the time that should be dedicated to the most qualified candidates.

Holly explained that her thoughts on this process are influenced by her background in community engagement as well as the recognition that the district is in a watershed moment where the community desires to become more involved with their local government. She acknowledged that it will take time to conduct so many interviews but believes that the board should at least commit to a brief phone call with each applicant.

John Griffiths commented that it is gratifying to have so much interest in the board and expressed agreement with Ali's comments that more time should be dedicated to the applicants that are likely to be qualified. He is not aware of any organization, public or private, that would interview every applicant for a job opportunity and he sees this situation as being no different. He stressed that whether an applicant receives an interview has nothing to do with their worth as an individual, but the board needs to limit the applicant pool in order to be able to have a manageable discussion about who would be the best fit for the district. He suggested the board members complete the scoring tool for each applicant as provided by staff and then have a discussion regarding the number of applicants to interview. He believes that with four minds working on the scoring, the board will naturally be able to identify those applicants who have the greatest potential for the district. If the board conducts an initial cut of applicants, those applicants should receive an explanation as to why they were no longer being considered and how they could increase their involvement with the district through other opportunities outside of the board level.

President Kavianian stated that he very much appreciates each applicant and their desire to positively contribute to the district and community, but still believes that the board should conduct an initial screening process.

Felicita noted that this is a unique position for the board in that they will be choosing a community representative for 240,000 district residents.

Holly stated that it appears the board is evenly split in terms of whether to interview all candidates. She suggested that the board members individually complete the scoring exercise to see if that results in some clarity and relative continuity in terms of applicants that stand out from the rest. She expressed hope that the scoring process might inform the board in regards to next

steps and present a clear line in terms of the number of applicants to interview. If a clear line is not presented, perhaps individual board member discussions with the General Manager would be the next step in determining how to move forward.

✓ Ali and John expressed agreement with this approach.

## **B. Grant Strategy Quarterly Funding Report**

General Manager Doug Menke introduced Brad Hauschild, Urban Planner/Grant Specialist, to provide an overview of the first Grant Strategy Quarterly Funding Report as included within the board of directors' information packet.

Brad provided a detailed overview of the Grant Strategy Quarterly Funding Report as follows:

- At its October 2017 regular meeting, the board approved the district's Grant Strategy.
- The intent of the Grant Strategy is to help the district take a proactive approach in identifying grant funding opportunities.
- The Quarterly Funding Report mirrors the district's fiscal year calendar and highlights grant activity for the previous quarter including:
  - Grant applications submitted
  - Status of current grant applications
  - Grant opportunities researched
  - Grant steering committee meeting highlights
- The report also highlights activities for the current and upcoming quarter:
  - Quarterly Grant Report – provides detail about submitted grant applications
  - Grant Strategy Work Plan – provides detail about upcoming grant applications

Brad offered to answer any questions the board may have.

The board members complimented district staff on this work and thanked Brad for the informative presentation.

## **C. General Manager's Report**

General Manager Doug Menke provided an overview of his General Manager's Report included within the board of directors' information packet, including the following:

- Payment Card Industry (PCI) Compliance
  - Ann Mackiernan, chief financial officer, and Clint Bollinger, Information Services manager, provided an update regarding the district's work toward PCI compliance via a PowerPoint presentation, a copy of which was entered into the record.
- 2018/19 Capital Projects Update
  - Jon Campbell, superintendent of Maintenance Operations, provided an overview and photos of some of the upcoming capital replacement projects anticipated for FY 2018/19, via a PowerPoint presentation, a copy of which was entered into the record.
- Elsie Stuhr Day Celebration
  - Patty Brescia, Stuhr Center supervisor, provided an overview and photos from the annual Elsie Stuhr Celebration Day commemorating the life and accomplishments of Elsie Stuhr, via a PowerPoint presentation, a copy of which was entered into the record.
- Board of Directors Meeting Schedule

Doug offered to answer any questions the board may have.

Holly Thompson asked whether it would be possible to enable THPRD's registration system to remember a patron's credit card information in order to keep them from having to reenter the information every time they want to pay for a class.

- ✓ Ann replied that a specific tokenization process would be needed in order to facilitate this and described briefly how the tokenization process works.

- ✓ Clint added that this feature is a work in progress that district staff is working toward.

Holly stressed the inconvenience of having to reenter credit card information for monthly payments, noting that she has heard similar complaints from other patrons, and asked what can be done to expedite a remedy.

- ✓ Clint noted that a tokenization pilot program is currently in process using a small group of select participants at Garden Home Recreation Center. It is a feature that district staff is working toward and wants to be able to offer for the convenience of its patrons.

#### **Agenda Item #10 – Adjourn**

There being no further business, the meeting was adjourned at 9 pm.

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Ali Kavianian, President

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Felicita Montebanco, Secretary

Recording Secretary,  
Jessica Collins