

Minutes of Regular Meeting
Board of Directors
San Jose Downtown Property Owners' Association

February 21, 2012

A regular meeting of the Board of Directors of the San Jose Downtown Property Owners' Association (POA), a non-profit California corporation, was held at SJDA office, 28 N. First St., Suite 1000, San Jose, CA 95113.

Board members present: Souza, Mattson, Keit, Ortbal, Ryan, Schneider and Utic. Board members absent: Berg and Hammers.

Also present were Executive Director Scott Knies, Deputy Director Blage Zelalich, Operations Manager Eric Hon, Eric Klein, Adobe Systems, Inc., Kelley Cosgrove, General Manager of the Fairmont San Jose and Rich Mongarro, SGI Program Director for Groundwerx.

Utic called the meeting to order at 8:35 a.m.

Utic welcomed Eric Kline and Kelley Cosgrove. Utic said the PBID board has been fortunate to have representatives from both Adobe and the Fairmont since the formation of the district given the prominent role each one plays in downtown San Jose.

Minutes

- The meeting minutes from December 13 were emailed to the board prior to the meeting and were unanimously approved.

Vice President's Report

- Utic said January 13 joint SJDA/PBID meeting was the official launch of the renewal campaign. He also commented on the strong presentation by PUMA, the renewal consultant hired by the board. The consultant said that many of the questions asked by the audience at the meeting had been already asked by the PBID board, which shows the board has been in tune with property owners. There was also a lot of positive feedback about the work performed by Groundwerx over the last four years.
- Mattson said that as a board member she appreciated the support from other organizations, such as 1stACT.
- Schneider agreed and said there is a general consensus that the PBID has been doing very well.

Old Business: Services and Renewal

- The first action item on the agenda was the recommendation of Kelley Cosgrove and Eric Kline to the PBID board of directors. Per the Property Owners' Association bylaws, the board can appoint new director(s) to fill vacancies on the board. With the recent resignations of Carlo Nardi and Randy Knox, Cosgrove and Kline have been recommended to fill their respective unexpired terms. Both were unanimously approved by the board.
- Utic thanked Cosgrove and Klein for jumping right in and representing two major downtown properties.
- Hon updated the board on the progress of the renewal campaign. The majority of the petitions were mailed to property owners and a handful will be hand delivered by staff.

- Hon said that he would continue to attend resident HOA meetings. Overall the residents have provided a lot of positive feedback on the PBID and Groundwerx.
- Knies said staff is still finalizing two required documents for the renewal of the district, the management plan and the engineer's report. City attorneys must approve both documents because of Prop 218, which has increased the scrutiny on assessment districts. Knies said that in 2007, all the services provided by the districts were considered to provide a special benefit to the property owners. Assessment funds can not be spent on services that provide a general benefit to the district.
- Zelalich said most of the cases now being cited by the courts were landscape maintenance districts, which are different than PBIDs, but now there is more attention on quantifying the amount of special benefit versus general benefit. Unfortunately, no one has prescribed a way to do this.
- A couple of cases more similar to PBIDs have been from San Francisco, at the Union Square and West Portal districts. These districts conducted intercept surveys and attempted to identify pedestrians who intended to engage in commerce in the district and based on that information were able to determine the amount of special versus general benefit.
- Zelalich said that staff has received proposals from two companies about conducting an intercept survey. Both proposals are over \$20,000 for 400 surveys, with a slightly lower cost of \$16,000 to \$18,000 in the number of surveys is decreased to 300.
- Ortbal said the City attorneys need to be able to defend the methodology used to form the district should there be a challenge.
- Cosgrove asked if there was another way to quantify the special versus general benefit besides spending \$22,000 on a survey.
- Knies said some districts do not conduct the survey, but the City is requesting that we do this.
- Schneider asked where the \$22,000 has been budgeted. Knies said this has not been identified yet.
- The board asked if the City should fund the survey since they are asking for it to be done.
- Ortbal said the City does not have the resources.
- The board had a discussion on the advantages of surveying 300 versus 400 individuals and the costs associated with the surveys.
- The board authorized staff to conduct the survey with a maximum limit of \$23,000. (NOTE: Two other bids were solicited and the firm of PMZ3 was hired at a cost of \$5,000)
- Knies reported the San Jose Police Department has indicated that it would like to accelerate working with the PBID on enhanced security. Zelalich said staff is finalizing a scope of work and anticipates having a close working relationship with SJPD. Staff is also working on identifying what type of statistics need to be kept, knowing that this would be a key component measuring the outcomes.
- Knies said there are three key issues to be resolved. The first is amending the City contract to perform security services within the district. The second is working through hiring, deployment and duty manual issues with the Police Department Secondary Employment Unit. The third issue is we have four years of consistent ambassador data, therefore how do we incorporate the new police security so it does not appear our services have declined.
- Schneider asked if there is a liability issue. Mongarro said the Secondary Employment Officers have insurance through the Police

Officers Association. Mongarro recommended following the service model at public schools, where the PBID officer would make an arrest and detain the perpetrator, but is booked by another officer.

- Mongarro reminded the board that adding the officer to provide security will result in a decrease of about 1.5 ambassador FTEs, leaving approximately three to four ambassadors.
- Knies said the City also wants to accelerate the Business Retention and Growth program proposed by the PBID. The City is eager to get started because it recognizes some deficiencies in its current permitting process. The City funded position could be up in running in the Office of Economic Development before the PBID position starts in January.
- Utic said that starting earlier gives the PBID the ability to get a head start on fine tuning the services. Board members directed staff to provide more details on the Business Retention and Growth program, including metrics to measure the program.
- The next item on the agenda is the board meeting schedule. Utic said the board met monthly in 2011 to work on renewal process, but now has the option of going back to a bi-monthly schedule. The board decided to go back to a bi-monthly schedule and directed staff to provide email updates as needed.
- The board also asked staff for an updated meeting schedule, including a beautification subcommittee meeting in March. Utic invited nonmembers of the beautification subcommittee to the March meeting as well.

Operations Report

- Hon gave a brief review of the operations report, which was sent to the board prior to the meeting.
- Hon said he has been in communication with both the Fairmont and Digital Realty about the maintenance of Paseo 1. Both are currently bound to the RDA's allocable share agreement and it will take some time to identify how to opt out of this agreement and fashion a new one.
- Hon said staff is preparing a revised maintenance budget that will be presented to the beautification subcommittee at the March meeting. The acceleration of the beautification projects have resulted in increased maintenance costs.
- The transit mall tree pruning is nearly complete. West Coast Arborists are finishing up on Second St. and should complete the transit mall area by the first week of March.

Meeting adjourned at 10 a.m.