

DOWNTOWN GRAND JUNCTION BUSINESS IMPROVEMENT DISTRICT  
BOARD MINUTES  
THURSDAY, DECEMBER 4, 2014  
437 COLORADO AVENUE  
8:00 A.M.

**PRESENT:** Les Miller, Chair; Jason Farrington, Vice-Chair; Shane Allerheiligen, Marty Chazen, Jodi Coleman-Niernberg, Kirk Granum, Kevin Reimer, Stephan Schweissing

**ABSENT:** PJ McGovern

**STAFF:** Diane Keliher, Harry Weiss, Aaron Hoffman

**GUESTS:** Rich Englehart, John Shaver

**CALL TO ORDER:** Les called the meeting to order at 8:16 a.m.

**APPROVAL OF MINUTES:** Kirk made a motion to approve the minutes of the November 13<sup>th</sup> meeting; Marty seconded; minutes were approved.

**REVIEW OF THE CONSTITUTION OF THE BID:** In anticipation of the public hearing on December 17<sup>th</sup> to consider the extension of the BID, Harry has undertaken a review of the process by which the BID was initially created and the legal documents formally establishing the District including the petition, the ordinance, and the ballot authorizing the special assessment funding mechanism. Since its inception the BID has operated on an understanding that BID services were restricted to ground floors businesses, and that businesses occupying upper floors and basements were ineligible. Additionally, eligible businesses were generally described as "members" of the BID and ineligible businesses as having no membership status. This led to the creation of a Friends of Downtown program through the DTA whereby "non BID members" could join the DTA for a fee and participate in BID programs jointly funded by the DTA and BID.

Pursuant to the BID statute, the BID is a physical district comprised of individual parcels assessed as commercial property. All of the property owners, businesses and residents located in the district are recognized as the qualified "Electors" of the BID who hold the voting rights to approve or disapprove the funding mechanisms of the BID. As such the Electors are the constituents of the BID, both in the legal sense as the voters in an electoral district, and more broadly as the people involved in or served by an organization. There is no statutory provision for "members," and recent discussions with legal counsel have cautioned against the notion of BID affiliate membership not provided by statute. While the DTA continued to exist, and as it functioned in partnership with the BID, that provided a vehicle for affiliation with the BID. But with the dissolution of the DTA, we need to clarify that the BID does not operate on the basis of membership, and in fact, all of the legally eligible Electors are BID constituents eligible for BID services.

Stephan left the meeting.

The policy excluding businesses located on upper floors and basements from BID services derived from a combination of factors. First was the legacy of membership in the DTA defined on the basis of direct payment of a membership fee to the organization by individual businesses. Second was the adoption of

the special assessment that funds the BID; the assessment is calculated on the basis of a rate applied to the square footage of land and of first floor enclosed space of the individual parcels located in the District. As a property-based district, the assessment is charged to the owner of the property, not to the individual businesses that occupy those properties as tenants. By implementing the owner-paid special assessment to replace the business-paid membership fee, the notion of a direct “pay to play” requirement in order to receive services was superseded. Eligibility for services is determined by the statutory definition of who an Elector is, not whether an Elector makes a payment to the BID.

Third, it was acknowledged from the outset of the BID that the marketing and special event focus of BID programs was intentionally designed to bolster the traditional retail base of Main Street. The tiered assessment formula that charges a higher rate for Main Street properties reflected the understanding that Main Street properties and retailers would be the primary beneficiaries of these BID programs. However, there is nothing in the ordinance establishing the BID that distinguishes between ground floor businesses and any other business located on a BID parcel; the entire parcel is part of the BID. Additional statutorily-permitted services that may be considered in the future are not inherently retail-centric and could serve the broad interests of the entire Downtown business community, not just the retail base.

Under the cooperative arrangement between the BID and the DTA, known formally as the Downtown Partnership, the BID Board of Directors mainly concerned themselves with the finances of the BID to insure that public dollars were appropriately expended, and day to day BID operations and policy considerations were delegated to the DTA. The DTA’s perspective and long experience as a non-profit membership-based organization informed their formation of BID policy though the BID was legally structured as something quite distinct from a non-profit entity, and the DTA inadvertently misinterpreted the ordinance.

Harry and John have consulted on the question of eligibility for BID services and agree that the BID constituents are all of the owners, businesses, and residents located on BID parcels without regard to the assessment formula. The assessment formula is simply that – a means of calculating the assessment amount for the entire property. The assessment could be calculated in any number of ways. The calculation does not define what is in the BID, the ordinance listing the parcels does. And a number of property owners petitioned to have their few parcels excluded from the BID. Kirk observed that it is up to the property owners/landlords to determine how they pass through the special assessment to their tenants, if they choose to do so at all. Both gross leases and triple net leases are used throughout Downtown. Jodi feels the exclusionary policy may have deterred development for the upper floors, citing the example of a potential upper floor tenant who felt exclusion from BID services was a negative factor in locating Downtown. John feels that with the extension of the BID, this is a good opportunity to revisit the policy.

Jason feels we should roll out the new policy change carefully and still explore ways that Downtown businesses that are located on properties not subject to the special assessment can participate in the BID and receive services. Harry suggested the possibility of a fee-based approach whereby non-BID electors could contract for BID services but distinguishing that they do not derive any status as a constituent or elector. Kirk mentioned that we have already collected money or received bartered contributions from some upstairs businesses. John stated that BID services are not a right and constituents need to come to the Board to ask for services. Kirk feels we should reach out to second floor businesses directly to explain the policy change. One major implication of a change in policy would be a significant expansion of the business directory in both its online and printed versions. The Board affirmed that based on this review of the BID statute and the organizing principles establishing the BID,

the BID recognizes all Electors as constituents of the BID who are eligible to participate in BID programs and activities and eligible for BID services.

**BID EXTENSION HEARING:** Harry will draft the staff report for the hearing on the 17<sup>th</sup>. He has asked a number of businesses owners to attend the public hearing to support the BID, or to communicate their support through email to City Council. He would also like board members to attend if possible.

**2015 ART & MUSIC FESTIVAL:** Harry is recommending that we move forward with the co-production of the Art & Music Festival with the Grand Junction Off-Road event with Epic Rides over the weekend of May 29-31. Todd Sadow, Dave Grossman, and Harry have identified the main challenges, all of which look manageable, as well as opportunities to share costs and improve both events. Harry is confident that it will work well for both entities. Harry needs board approval to move the date. Kirk likes the later date. The BID will be responsible for the beer and wine sales for the entire weekend – Epic Rides always enlists a local organization to handle the alcohol sales. Kevin is in favor of the move. By moving the festival to the end of May, it opens Mothers Day weekend to other possibilities. Harry would like to move the installation of Art on the Corner to the Saturday of that weekend and develop some additional programming to enhance the opening of the new exhibit, none of which would entail a street closure. Jason feels we should let everyone know that we will not be closing the street on Mother's Day. It will fill up the street and make for better foot traffic. Marty asked about the DDA's 3-year commitment of funding in support of the Off-Road. 2015 is the final year for the \$5,000 annual contribution by the DDA. Moving the Art & Music Festival offers an alternate strategy of collaboration in future years to enhance the Off-Road event.

**OTHER:** Kirk is concerned about the ability to sell Downtown gift cards at stores when the office is closed. The Wednesday before Thanksgiving, someone wanted to buy a gift card and the office was closed. Is there a way to sell them at retail businesses? Aaron explained that it takes software, hardware and staff time to train and sell gift cards. Aaron has spoken with City Market about carrying the card and they are not interested. He has also considered one of the Downtown hotels. Les feels we need to make it as easy as possible to buy them. Les also thinks the office should have been open on Black Friday.

Marty asked about the Grand West KIA promotion. Aaron said the mailers will go out next week. We are able to track the entire batch of cards used in the promotion to see when and where they are redeemed.

**ADJOURN:** Shane made a motion to adjourn; Kirk seconded; the board adjourned at 9:05 a.m.