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Rapid City, SD 57702

<http://friendsofrcparks.com/>

8 April 2014

Terry Wolterstorff, P.E.
Director
Department of Public Works
City of Rapid City

By E-mail (with 5 attachments)

Dear Mr. Wolterstorff:

Please accept our apology for the delay in providing you the attached background information on prior events and circumstances related to the tennis courts at Eighth Street. We incorrectly assumed that the notion of using the Memorial Greenway for a parking lot for downtown workers was no longer in play.

We have summarized below our recollection of the discussions and decisions that occurred related to siting elements of the Rapid City Central High School expansion in 2009. In support of that summary are public documents related to those discussions. Some of the material is not in the public domain, since there were legal matters at issue and the discussions occurred in private, executive sessions. We attempted to gather personal recollections of individuals who were privy to those discussions, but too much time has gone by for anyone to recall specific details. Mike Kenton, Facilities director at RCAC is a good source to confirm the following description of events.

Summary

In November 2009 it came to light that the plans for expansion of Central High School included use of park land for a new science wing on the existing building. The footprint of the structure would have encroached into land in the Rapid Creek Greenway designated as park, a use not allowed under South Dakota statute. (SDCL Secs. 9-38-33, 9-38-35(through 2012)). Friends of Rapid City Parks objected. (*Attachment 1*, Rapid City Journal, 11/14/09)

Other community members and organizations also objected, including a group that wanted to see the school district consider construction of an additional high school rather than expansion of Central. The school board was concerned that putting the issue (changing park designation) to a vote might fail (*Attachment 2*, Rapid City Journal, 11/16/09)

After numerous discussions among school board members, citizens, and members of the Friends board, the facilities committee came up with a revised site plan for the expansion, which swapped the positions of the science wing addition and the gym addition, and moved parking to the north. This change created a “recreation facility” in park land, not a “school building,” which is not an allowable use under statute. In addition, the school district and the city executed a memorandum of understanding that allows the public to use the school gym as a recreation facility. (*Attachment 3*, RCAS_City_Joint_Agmt)

Friends of Rapid City Parks dropped its challenge to the expansion project in the recognition that the “recreation facility” circumvented the statutory ban on school buildings in the park, and with the understanding based on verbal statements from Mike Kenton, then-parks-director Jerry Cole, and school board members that the 8th Street tennis courts were no longer needed because of new courts elsewhere in the park system, and that the paved areas covered by the old courts and adjacent parking lot would be torn out and restored to the greenway in compensation for the encroachment of the new school addition. (*Attachment 4*, KEVN story; 4B RCAS_11-18-09)

We made our acquiescence in the change public at the Dec. 10, 2009 meeting of the Planning Commission (minutes available online); the city council subsequently approved the zoning change and the memorandum of agreement on Dec. 21, 2009 (minutes available online).

We hope this clarifies our understanding of what happened in 2009, and why we relied upon the good word of public officials that the tennis courts and parking lot would be returned to the greenway. Over the intervening years, we inquired about when the action would actually be taken, but there was no conclusive answer, and the school district and the parks department each deferred to the other. We also understand that this was not a high priority, and other needs took precedence for scarce city resources.

That does not mean, however, that our patience is infinite, or that we’ve given up on the idea.

We will attend the Public Works Committee meeting next week to reaffirm our staunch opposition to using the greenway to create parking for downtown business employees.

Sincerely,

Suzanne Iudicello Martley
Executive Director

cc: Mayor Sam Kooiker, Parks & Recreation Director Jeff Biegler, Public Works Committee Members Ritchie Nordstrom, Chair; Brad Estes, Vice Chair; Bill Clayton, John Roberts, Amanda Scott.

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SATURDAY, NOVEMBER 14, 2009

Land oversight could derail Central High School project

'IT'S A BIG PROBLEM': Major part of the expansion would be on park land, which violates state law.

By Kayla Gahagan
Journal staff

An oversight in the renovation plan for Central High School could potentially derail the entire project and render almost half a million dollars in design and engineering work useless.

The Central High School renovation and addition project hit a

major snag late last week when officials realized land about to be donated by the city for a major part of the expansion is park land.

State law doesn't allow educational facilities to be built on park land. It does allow for public libraries, museums and art galleries.

A gymnasium and science wing were to be built on the

park land south of the school, as part of a multimillion-dollar overhaul of the current facility.

"It's a big problem," support services director Mike Kenton said during a heated discussion Friday among city and school officials and community members.

The issue could be put on the city's June ballot to provide an exemption for the building, but board members asked Mayor Alan

**Coming
Monday**

Rapid City Area Schools now must seek help from the Legislature, voters or restart project from the beginning.

See LAND, Page A5

LAND: Parks group vows to fight against the build.

From Page A1

Hanks to come up with another option.

Hanks said the board could submit an emergency bill to the Legislature, to include wording that would allow for educational facilities to be built on park land.

Hanks said he has already spoken with majority leaders in the House and the Senate who said they would support such a bill.

Not so fast, said representatives from Friends of Rapid City Parks, who vowed to fight the build through any legislative change or a public vote.

"If anybody thinks it's going to be a cakewalk to desecrate parks of Rapid City, you've got more thinking to do," Don Frankenfeld said. "You're trying to do something that's illegal. This is a major league screw-up."

Frankenfeld said the law is there for a reason: to protect parks from the encroachment of buildings. Attempting to quietly change the law by going to the Legislature with an emergency bill is foolish.

"You might win, but

you're not going to win easily," he said.

School board member Suzan Nolan was frustrated the board had gotten so far along in the project without someone knowing about the statute.

The board has spent \$417,000 on the design and programming for the building so far.

"Why didn't we know this 10 months ago?" she asked. "How could we have gone this far and not known? How did

this happen?"

School board member Doug Kinniburgh said the city and the board both are to blame. The board knew the land was city land but didn't know it was park land.

Hanks said no one asked the city about the land designation and said city officials are just now seeing the designs for the building.

But school board member Wes Storm took exception with that.

"We both have got to be

blamed," he said. "Those plans have been out since March. If it's just the city saying we screwed up, I don't buy that."

Hanks said the city has not done anything illegal, and he was frustrated they were being put in a bad light and "thrown under the bus" for trying to offer another alternative.

"I was advocating for a solution," Hanks said, adding that he is not anti-parks. "Our goal is to help the schools all we can."

The committee plans to make a recommendation to the full board at Thursday's board meeting.

"The question is: Do we continue the work, or do we not?" Rapid City Schools business manager Dave Janak said.

At that meeting, the board is expected to decide whether or not to draft an emergency bill and if current design work should be halted.

Contact Kayla Gahagan at 394-8411 or kayla.gahagan@rapidcityjournal.com

Hockey demands fast changes in strategy. B1



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MONDAY, NOVEMBER 16, 2009

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Central expansion options a gamble

PARK LAND: Change could force school district to re-evaluate plans.

by Kayla Gahagan
Journal staff

The Central High School expansion project is at risk, and the Rapid City school board's two options are a gamble.

It became public during Friday's school district facilities meeting that the city land which was to be donated for the Central project is park land; state law doesn't allow educational facilities to be built on park land.

And so the school board is faced with two choices.

The board could draft an emergency bill for the upcoming legislative session that would change the

law to include educational facilities. If the Legislature agreed, the board could continue with its schedule to let bids in February and March and begin construction during the summer. But an emergency bill would require a two-thirds vote in the House and the Senate, board president Wes Storm said, which could be a challenge.

Or the board could put the issue on the June election ballot, allowing

the public to vote on a local exemption to the law. But that would put construction behind schedule, officials said. Engineers on the project also point out that costs are 30 percent higher during the winter than the summer. Keeping to the schedule is also a safety concern, budget and finance director Dave Janak said. Summer is the safest time for

See CENTRAL, Page A3

What's next?

Rapid City Area Schools Board of Education will meet Thursday at 7:30 p.m. at City/School Administration Center. The board is expected to decide whether to draft an emergency bill for the Central High School expansion and if current design work should be halted.

CENTRAL: Board will discuss changes this week.

From Page A1

heavy construction to be completed around the schools.

Plus, board members and administrators aren't sure a local vote would pass. Voters in Black Hawk, Rapid Valley and Summerset — many of whom send children to Central High School — would not be able to vote because they live outside city limits, Janak said.

School officials worry that the worst-case scenario — both the Legislature and the voters reject their

request — would derail the project, which has already cost almost half a million dollars.

"If they both say no, you have to go to another site," board member Doug Kinniburgh said.

Board member Suzan Nolan said the board never would have agreed to the expansion to the south if it had known it was impeding on park land. She doesn't want to start all over because of "all that energy and thought that has been put into this plan, but I think we have to do the right thing."

"I realize you can't please all the people, but it's a good idea to try," she said.

She said the district should consider donating land for a park if it is going

to try to use current park land for the expansion. It is something that has been done in the past, support services director Mike Kenton said.

The problem with starting over, Kinniburgh said, is that it's a domino effect.

"I think we need to re-view our entire plan then," he said, which includes looking at district boundaries, and enrollment and capacity at elementary and middle schools.

Discussion about changes to Central have been going on for years, but board members moved on the project last year after the completion of a master fa-

cility plan emphasized that the school's overcrowding issues should be the No. 1 priority for the district.

The park land issue jeopardizes one of the largest projects in the district's history — a plan that was expected to begin breaking ground this summer. Administrators and board members said they were loath to start changing plans that have been seen by the community, researched, designed, and well thought out.

"We think we've got a good plan," Kenton said.

Contact Kayla Gahagan at 394-8410 or kayla.gahagan@rapidcityjournal.com

AGR
259
12-21-09
Misc Rest
Agree

JOINT POWERS AGREEMENT BETWEEN THE CITY OF RAPID CITY
AND RAPID CITY AREA SCHOOL DISTRICT NO. 51-4
FOR JOINT USE OF THE ATHLETIC FACILITY AT
CENTRAL HIGH SCHOOL

Agreement entered into this 21 day of December, 2009, between the City of Rapid City, South Dakota, (the City), and Rapid City Area School District 51-4 (School District).

Pursuant to SDCL 1-24, joint exercise of governmental powers, this Agreement shall be of no force and effect until it has been approved by the Rapid City Council and the School Board of Rapid City School District 51-4.

WHEREAS, the School District currently leases property from the City and operates Central High School on the property; and

WHEREAS, the School District desires to expand Central High School to meet the needs of the students in the school system; and

WHEREAS, the School District desires to use additional property adjacent to Central High School for the expansion of its athletic facilities; and

WHEREAS, the City of Rapid City has a need for additional space for its recreation program that could be met through the shared use of the athletic facilities the School District requires; and

WHEREAS, the parties intend to operate the new athletic facilities pursuant to their mutual authority in a manner similar to other community facilities that are jointly operated; and

WHEREAS, the City and School District agree to the joint use of the remainder of Tract 19 lying north of Rapid Creek for the purpose of operating recreation fields, outdoor education facilities and supporting parking areas.

Now, therefore, for and in consideration of the Covenants and Agreements contained herein, and the mutual benefits flowing to each party as outlined in this Agreement, the parties agree as follows:

Section One
Regulations for Use

The City and the School District reserve the right to authorize appropriate use of the Physical Education and Recreation Facility at Central High School during each entity's scheduled usage time period. No activity or user of School District or City's facilities shall discriminate against any person wishing to participate in any activity sponsored by the School District or the City.

The facility may be leased from the School District or the City during each entity's scheduled usage time period. Proceeds from the lease will be distributed to the School District and/or City to cover supervision costs and to compensate the School District for additional utilities and custodial expenses incurred during that lease period. Damage deposits may be required.

Authorized personnel of the School District and the City shall enforce all necessary and proper rules and regulations for the management of any area during the use of that area by the School District or the City or their designees.

Section Two Construction and Maintenance

Unless otherwise stated in the appendices, the provisions of this section shall establish construction and maintenance responsibilities to the Physical Education and Recreation Facility at Central High School.

The City will lease property to the school district as necessary for construction of the facility for a period of ninety (90) years for the lump sum of one dollar. Property legal description is in accordance with Attachment B.

The School District will provide all utility, custodial and maintenance service to the Physical Education and Recreation Facility at Central High School in a manner consistent with its use. All costs for these services along with salaries will be paid by the School District.

The City and the School District will establish sufficient times for custodial and maintenance services that are mutually beneficial and that promote maximum use of the facilities without compromising custodial and maintenance performance.

Repair due to damage caused to the Physical Education and Recreation Facility at Central High School from inappropriate use shall be paid by the agency sponsoring the activity that caused the damage. Otherwise, capital improvements and major repairs deemed necessary by the City and School District will be paid by the School District.

Section Three Insurance

The School District will maintain property damage insurance for all structures involved in this Agreement. Each party shall carry its own insurance for personal property or building contents. If applicable, any loss involving payment of deductible shall be the responsibility of the owner of the policy providing coverage.

The City and School District shall maintain general liability insurance covering their activities within the facilities and name each other as additional insured's.

Section Four
Official Contacts

The official contact for the City shall be the Director of Parks and Recreation or his designee. The official contact for the School District shall be the Director of Support Services, or designee.

Section Five
Schedule of Physical Education and Recreation Facility at Central High School

The School District and City will schedule the facility in a manner that will not conflict with instructional programs. The facility will be made available for community programs on days and at times found to be mutually satisfactory to the City and the School District. In general, the Physical Education and Recreation Facility at Central High School will not be scheduled between 11:00 pm and 6:00 am. The City and School District may schedule outside their allotted times if the affected entity agrees to the request.

Section Seven
Term of Agreement

This Agreement shall be for a period of ninety (90) years from the date hereof. In the event that either the City or School District default on any provisions of the agreement, the other party may assume full maintenance, operation and scheduling authority and the other provisions of this Agreement shall remain in full force.

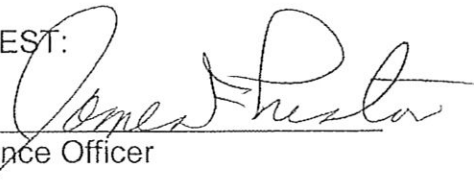
Dated this 21 day of December, 2009.

CITY OF RAPID CITY



Mayor


ATTEST:



Finance Officer

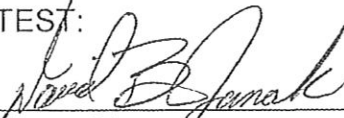
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RAPID CITY SCHOOL DISTRICT 51-4



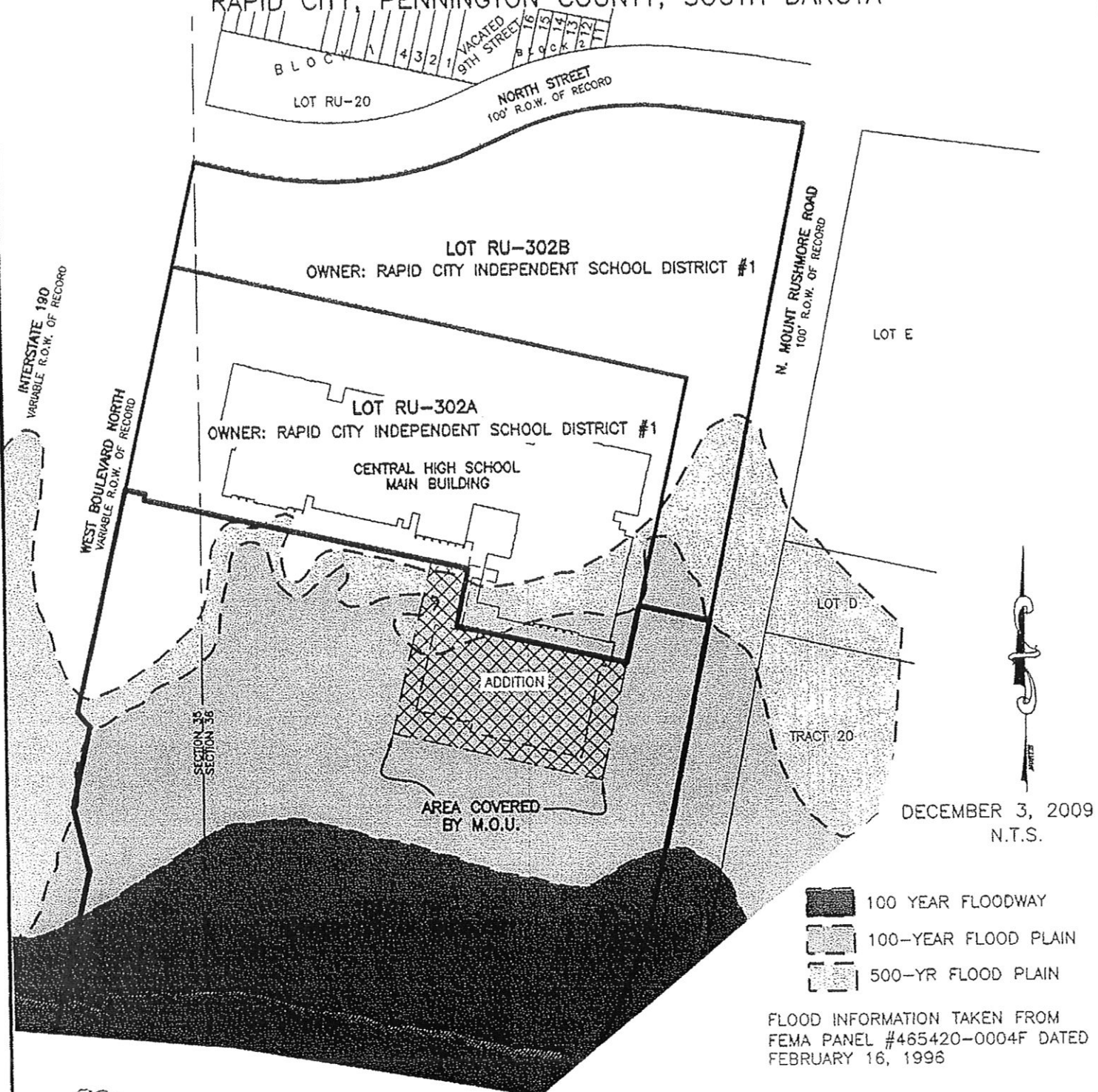
President, School Board

ATTEST:






Business Manager

ATTACHMENT A
AREA EXHIBIT – M.O.U.
A PORTION OF TRACT 19 OF
RAPID CITY GREENWAY TRACT
 LOCATED IN SECTION 36, T2N, R7E, BHM
 RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA



DECEMBER 3, 2009
 N.T.S.

-  100 YEAR FLOODWAY
-  100-YEAR FLOOD PLAIN
-  500-YR FLOOD PLAIN

FLOOD INFORMATION TAKEN FROM
 FEMA PANEL #465420-0004F DATED
 FEBRUARY 16, 1996



RENNER & ASSOCIATES, LLC.

616 SIXTH ST. * RAPID CITY, SD 57701
 PHONE: 605/721-7310 FAX: 605/721-7313
 SPEARFISH OFFICE: 605/717-0016

CITY HALL 1903

The following story appeared on KEVN on November 18, 2009 after the school board changed the plans for the Central High School science building. The video taped interview with FRCP President Steve McCarthy is no longer on the KEVN website.

They came with their game face on ready to put up a fight but instead members of the local organization Friends of the Parks walked away pleasantly surprised. Instead of moving forward with plans to expand Central High School on park land the Rapid City School District announced Thursday night that it will build somewhere else. The district was informed last week that the land it planned to use for the expansion is considered park land and under state law, the school isn't allowed to build on it. Board members considered asking the state legislature to change the law or to put it to a public vote but neither of those options was a guarantee and would delay construction. Thursday night the board announced some unexpected news, they will move the science addition from park land on the southeast corner to an existing parking lot on the northeast corner. Steve McCarthy says, "This is a surprise, a wonderful surprise, and I congratulate the school board for really considering how important our parks are to Rapid City citizens, and I think it's important for them too to maintain this park system. It's nice to see the parks move up on the agenda." McCarthy says although the new plan is less intrusive the board still wants to build more parking spaces on park land which he opposes. The board argued that Central's tennis courts and parking lot are to be torn up and that land donated back to the parks so in turn, it's an even trade. The proposed basketball courts and indoor running track would still be built on park land but would be used as a community recreation center which complies with state statute. In order for that part of the plan to move forward, the district needs city council approval. It goes before the council next month. As for moving the science wing to the north side, board member Suzan Nolan says – by doing so – the district will actually be saving money in the long run.

Megan Palera