

# VAIL HOMEOWNERS ASSOCIATION



**The Sheep Get Squeezed**

## The Plight of the Bighorn Sheep Election Updates September 9, 2019

**Booth Heights Project approved.** By a controversial 4 – 3 vote (Kurz, Gillette, Perez and Lockman for approval; Stockmar, Kjesbo and Hopkins against) the PEC approved the Booth Heights development. There were a few small changes such as the elimination of the proposed turn-around bus stop and Triumph realigned some of the apartment units to bring the parking within Code requirements but the mass and scale of the project

remained the same. At the same time, Triumph was allowed to “buy off” its environmental protection responsibilities by paying \$100,000 to dump those responsibilities in the Town’s lap.

The vote was controversial not only because of the potential harm to the sheep and a multitude of other objections but also because Commissioner Lockman, who voted to approve the project, works for Vail Resorts and it is a principal beneficiary of the approval of the project. A large number of residents protested his voting on the project but he nevertheless claimed he could be impartial. By way of comparison, recently a Pitkin County Commissioner recused herself from voting on an Aspen Ski Co.’s planned expansion because her son-in-law worked for the company.

**Town Council refuses to “Call Up” the PEC decision.** Following the PEC decision, 386 residents and citizens of Vail asked that the Town Council “call up” the PEC decision so it could be reconsidered by the Council. Despite that request and other voices calling for the same thing, the Town Council voted 4 – 3 against a call up. Mayor Chapin and Council members Bruno, Coggin and Moffet expressed agreement with the PEC decision and voted against a call up. Voting in favor of a call up were Council members Langmaid, Mason and Foley. That vote was notwithstanding the Council’s promise at the time of rezoning, that matters concerning the environment and compatibility could be brought up when a project was proposed, a promise that many understood meant that those matters could be raised before the Town Council.

The Council’s refusal to afford a hearing means that this project was approved by an appointed body that is not answerable to the public and one member of which had at least the appearance of a conflict of interest, if not an actual outright conflict.

**More problems for the Sheep?** As the VHA previously reported, the Town is planning on redeveloping and expanding the Public Works bus maintenance facility at the western end of the sheep’s winter range. That area is the winter foraging grounds for the rams of the East Vail bighorn sheep herd (rams forage separately from ewes and lambs except for the spring mating season).

An application for a variance to build a first-step large retaining wall for that project has now been filed with the PEC and a first hearing was held on August 26th. Because the application did not contain an Environmental Impact Study, the PEC tabled the application to the September 30 meeting to allow Public Works to prepare an appropriate EIS and reportedly that is taking place, although the date for the next meeting may have to be adjusted if the EIS has not been completed by that time. The EIS will necessarily include mitigation plans to offset the harm from the construction and expansion of the facility. Those mitigation plans should include at a minimum:

1. Habitat enhancement, which should take place in conjunction with the mitigation work currently being planned for the TOV and USFS lands below the Booth Falls cliffs (see below). The focus of concern so far has been on the area below the Booth Falls cliffs where the lambs and ewes forage but the vitality and ultimate survival of the herd also depends on the health of the ram population. That will require enhancement of their habitat as well.
2. Restriction of the most obtrusive construction disturbance (site clearing, excavation, use of heavy equipment, installation of utilities) from November 15 – June 1.
3. A requirement that all construction be screened by impervious construction screening. At the completion of construction and before occupancy, the entire project should be enclosed with permanent eight-foot tall cyclone fencing that will prohibit public access to bighorn sheep foraging areas.

4. Permanent landscape screening around the entire facility.
5. A prohibition of any dogs at the facility by either construction personnel, workers at the facility or by any residents in housing at the facility.

Since the Public Works facility expansion is to be done in stages, there will be time to complete and demonstrate effectiveness of those plans before the bulk of the construction takes place. The VHA will continue to monitor developments on this matter and report as needed to keep the community fully informed.

**Mitigation Plans for the sheep.** With the task of mitigation for the bighorn sheep dumped into its lap, the TOV is moving forward with developing plans for that purpose. A budget request for \$100,000 for FY 19/20 is pending in the budgetary process and VHA urges its approval. That money, together with approximately \$40,000 from the current budget and the \$100,000 Triumph contribution, will create a working budget of \$240,000 for sheep mitigation.

According to TOV officials, the TOV is currently working with CPW and the USFS to develop a plan to convert currently underused or unavailable habitat into more desirable and productive bighorn sheep habitat. The objective will be two-fold; to create more appropriate sheep habitat and to increase the carrying capacity of what is already available and heavily used. Although the scope of work has not yet been finalized, it is anticipated that it will include removal of jackstrawed logs, trimming of shrubs and undergrowth, thinning of woodland areas to provide more open space for sheep foraging (sheep will not forage in forested terrain because of predator danger) and targeted burns. Because the sheep habitat includes both TOV land and USFS land, different scopes of work may be necessary. Under a best case scenario, that work could begin next spring, as soon as the sheep vacate the area.

Kudos to the TOV for getting this underway. However, based on its study of the herd, the VHA believes that the following additional steps are necessary:

1. Habitat enhancement should be expanded to the western end of the winter range (the area above and adjacent to the Public Works facility) where the rams forage over the winter months.
2. Since habitat enhancement cannot begin until next spring, the entire herd should be monitor during the coming winter to ensure there is adequate foraging for the herd. To the extent necessary supplemental feeding should be provided
3. There should be a GPS collar movement study of the entire herd to provide base-line data about the sheep's movement and use of the area to better inform future mitigation efforts. It should involve at least 10 to 12 sheep, including at least 3 rams. The movements of the sheep should be tracked over at least a two-year period and the resulting data should be periodically posted to a publically accessible website.
4. There should be permanent closures of all bighorn foraging areas with appropriate monitoring and enforcement with zero tolerance for any violations.

Wildlife experts caution that even with all of these steps, there is no guarantee that the herd will survive. The VHA intends to also continue to monitor developments in this regard and report as necessary to keep the community informed.

**An election is coming.** Qualification for the Town Council election has now closed. There are a total of seven candidates vying for four seats. The top four vote getters will win. The candidates are incumbents, Kim

Langmaid, Jen Mason and Kevin Foley, together with Barry Davis, Karen Perez, Brian Stockmar and Pete Seibert. Mayor Chapin and Council members Bruno and Coggin have continuing terms; Council member Moffet is not eligible to run for reelection.

The election will take place on Nov. 5 by at-the-polls voting at Town Hall, 75 South Frontage Road from 7 am to 7 pm, although absentee ballots will be available (must be applied for by Nov 1). The VHA has repeatedly urged mail ballots, which is the procedure followed by Eagle County, because mail ballots increase voter turnout but so far, the Town Council has declined to use such ballots.

In terms of the bighorn sheep, five of the candidates have cast votes on the bighorn sheep matter and one has spoken in favor of the Booth Heights project. Kim Langmaid, Jen Mason, Kevin Foley and Brian Stockmar (the current chair of the PEC) have all voted to either reject the Booth Heights housing proposals and/or call up the PEC vote on that project can be reviewed before the Town Council. Karen Perez (a current member of the PEC) voted to approve the Booth Heights development and Pete Seibert appeared before the PEC and spoke in favor of the project. To our knowledge, the other candidate, Barry Davis, has not stated a public position on that project or the bighorn sheep.

As part of our efforts to better inform the community, in the coming months VHA will submit extensive surveys to all the candidates covering a wide range of issues. Candidate responses will be posted to the VHA website. We welcome your input on appropriate subjects for those surveys.

**Post Office Box 238 Vail, Colorado 81658**  
**Telephone: (970) 827-5680 E-mail: vha@vail.net Web Site: www.vailhomeowners.com**