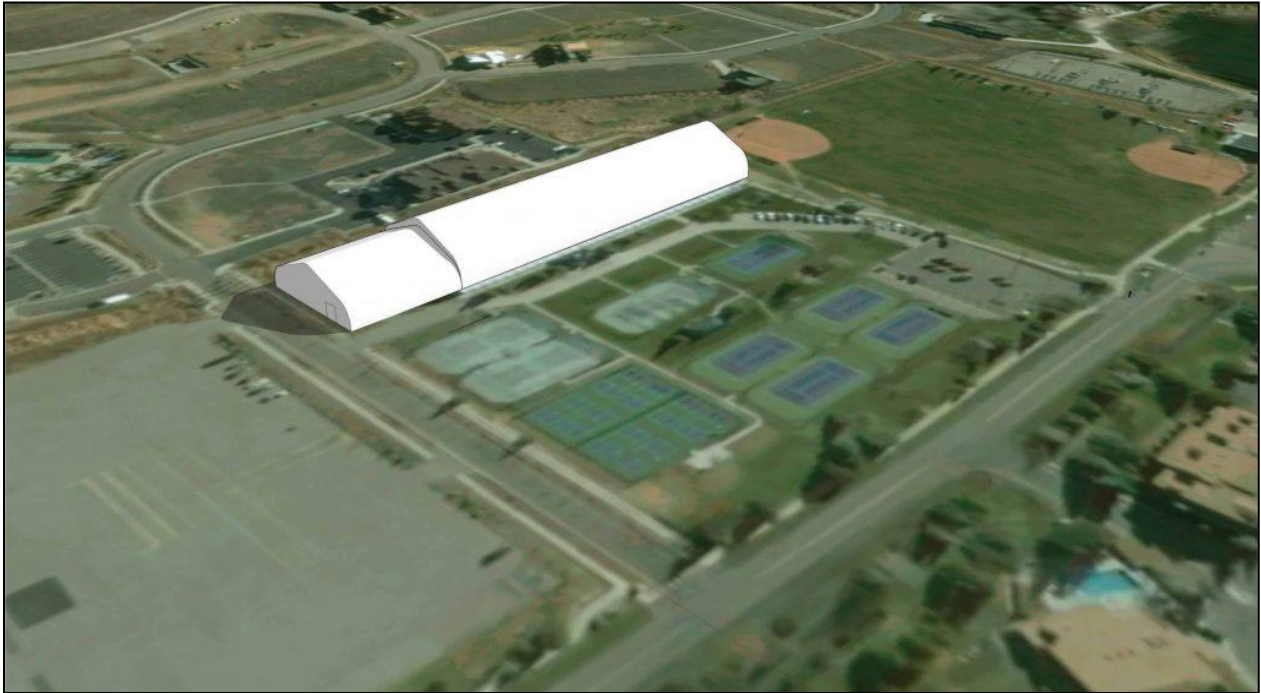


VAIL HOMEOWNERS ASSOCIATION

Update on the In-Door Sports Facility Does Vail Have an Adequate Conflict of Interest Law?

March 1, 2020



A typical tennis/pickleball court enclosure.

We have new information about the proposed In-Door Sports facility, but first a correction and some clarifications. We reported on February 11 that it was a Vail Recreational District committee that had proposed the project and was studying its feasibility. We were misinformed. This project was not initiated by either the VRD or the TOV, and the committee is not a VRD committee rather an ad hoc group of private citizens, primarily pickleball enthusiasts.

To date, neither the VRD nor the TOV have taken a position on this proposed project. While the Town has appropriated \$10,000 for a feasibility study that money will not be released until the Town decides that such a project should go forward, and then the funds would only be released through a Town-led RFP process. Since such a project would require amending the Park's Master Plan, the VHA suggests before spending that money it would be wise to review the history of the Park's development vis à vis large structures and consider whether such a highly visible structure is compatible with the Park's character and purpose.

Since there is as yet no specific proposal, some objected to the above visual presentation that accompanied our February 11 report. This image is of a Steamboat project that was provided to VHA by the citizen's committee, and it is consistent with the type of structure that the committee has been discussing for Ford Park, i.e., a metal sprung steel structure. Reality is that there is no getting around that tennis and pickleball court enclosures tend

to be very large, industrial appearing buildings. Indeed, much more would be prohibitively expensive. The VHA used that visual because it believes it is better that the public realize at the outset what is being discussed than be surprised later after money, time and energy have been spent.

As far as the rest of VHA's report on this project, both the VRD and the Town have agreed that VHA has raised the proper questions, and if such a project were to go forward, those questions will need to be addressed and answered. The VHA was also assured by both the VRD and the TOV that if such a project were to go forward it would be highly vetted by the public, and there would be plenty of opportunities for public input.

The VHA welcomes the cautious tone of the VRD and TOV comments. Ford Park is one of Vail's most important assets; one that defines the community and which the community in turn has repeatedly said should be cherished and protected. [In the Town's early days, the Town fathers developed a Master Plan, the 1974 Vail Plan, to shape Vail's identity.](#) The Plan sought to harmonize development and preservation, and balance environmental sustainability and the quality of life. As one of the principle architects of that Plan often said, "bigger is not always better." Those were the principles that shaped the destiny of the Vail community and continue to do so today.

Ford Park was a key part of that plan, providing a sense of open space at the eastern end of higher density development to soften the human impact of urbanization and, at the same time, providing recreational opportunities for the community. And those foundational concepts have stood the test of time as they have continued to flow through the many studies and amendments to the Park's Master Plan that have occurred over the past 46 years. That commitment is also evident in the community's rejection of the several proposals over the years to erect large buildings and structures in the Park, such as an enclosed ice rink, a swimming pool complex, parking structures and, most recently, an events center.

The environmental and quality of life aspirations of those early years remain a vigorous passion of the Vail community today, perhaps even more so. But that doesn't mean goals and plans can never change. There is, however, a process for that to take place, and it should have at least as much public consideration and input as did the original plan and its several reconsiderations. That is what occurred in the past when there were proposals to build other large structures in the Park.

That this proposal got as far as it did without any governmental approval or encouragement underscores another point. Vail is at a critical point in its history. The first 50 years were about building a community, and development was the financial engine that drove Vail forward. But now, Vail is largely built-out and needs to consider what the next 50 years should look like. [That is why the VHA has repeatedly urged that Vail needs a visionary, forward looking process to plan for its next 25 to 50 years.](#) Such a process would bring the entire community together to set priorities and a future course.

The VHA takes seriously the responsibility to inform the public about issues or developments of concern. We work hard to get our reports right, and if they contain errors, we are not reluctant to correct them. At times it has been difficult to prepare our reports because we ask the tough questions and shine a light on matters when it is not always welcomed. Too often in the past, the public's business was conducted in the shadows, only seeing the light of day when it was ready for a final decision. The VHA believes that now, with a new Town Manager, change is in the air and transparency will be the order of the day. That can only bode well for sustaining Vail now and well into the future.

Does Vail Have an Adequate Conflict of Interest Law?

Serious conflict of interest questions rose surrounding the recent Booth Heights development proposal, but they were summarily dismissed when the affected parties stated that they could be fair. This left many wondering whether Vail's [conflict of interest provisions needed reconsideration, and the VHA has urged that take place](#). Indeed, many believe that if Vail had a strong conflict of interest law, the Booth Heights proposal would have never been approved.

Currently, Vail's conflict of interest provisions consist only of (1) a prohibition of Council members having a financial interest in the Town's business (Town Charter § 3.7) and (2) a prohibition of Council members and members of Town Boards and Commissions using the Town's confidential information or accepting certain gifts (C.R.S. 24-18-104). Vail has no overall conflict of interest prohibition, and in terms of those recent issues, no prohibition against a Town representative voting on matters that would have a direct financial benefit to his/her employer or on quasi-judicial matters about which he/she has already expressed a position.

Conflicts of interest undermine the integrity of government. Even the appearance of a conflict can make it seem that decisions are biased and that special interests control agendas. And it is not sufficient that an affected person says that they can be fair; who is not going to say that? When a conflict exists or even appears to exist, the affected person should be prohibited from voting on the matter. Many other communities have prohibitions against government officials acting on matters when they have a conflict of interest. But, notwithstanding, the Booth Heights experience, the subject of a conflict of interest provision for Vail, did not come up at the recent Council retreat nor is it currently on the Council's agenda. Apparently, it takes four Council members to get a subject on the agenda for a Council work session. Absent that, it appears that the subject will not be taken up even though it has strong community support.

This may be one of those matters that will take community input to accomplish. There is no good reason why Vail does not have a strong conflict of interest law. If this is a matter that you believe should be corrected, then the VHA urges that you let the Council and Town Manager know. You can contact them at towncouncil@vailgov.com

These issues are typical of what the VHA investigates and reports on. In that connection, the VHA endeavors to bring attention to matters of community interest. [If you value our reports, we invite you to join VHA or become a subscriber to our reports](#). Together we can make our voices heard and make a difference for the good and the future of our community.

VHA welcomes your participation and support.

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