

**The Michigan City Park and Recreation Board** met in regular session on Thursday, February 5, 2009 at the hour of 5:00 P.M. in the Michigan City Parks and Recreation Office, City of Michigan City, Indiana.

The Pledge of Allegiance was recited.

On the call of the roll, the following Board Members were found to be present or absent:

**Present: Messrs. Latchford, Freese, Milcarek and Mr. Dabney (4)**

**Absent: None (0)**

**Also present were:** Patrick Donoghue, Park Department Attorney; Jan Orlich, Superintendent; Shannon Eason, Director of Administrative Services; Pat Donoghue, Park Board Attorney; Joe Doyle, City Council Liaison; Bill Greene, School Board Liaison; Jason Richardson, Director of Golf; Jeremy Kienitz, Recreation Director; Shannon Chavis, Knapp Elementary School; Jonita Davis, Port Authority Board; Tony Childers; Laurie Wink, The News Dispatch; and Andre Steele, ALCO TV.

- **On a motion** made by Mr. Freese, seconded by Mr. Milcarek and voted unanimously by the Board, the Board approved the minutes of the January 22, 2009 Park Board meeting.

Park Superintendent Jan Orlich recommended that we use Haas & Associates as a consultant on the structural renovations for the Amphitheater. Tim Haas is a trusted and very dedicated engineer that Ms. Orlich feels has vested interests in the Park Department. Ms. Orlich stated she also feels comfortable with a second opinion regarding the renovations that Dh2w is proposing. Ms. Orlich believes this would give the Park Department a sense of security using the consulting service to assure the money which was received through the appropriation would be spent properly for the necessary renovations. Mr. Haas has estimated ten to fifteen hours of work would be put into consulting services. Ms. Orlich stated she thinks it is a small amount to pay for his expertise.

Mr. Latchford stated he believes the thought process behind this is that we can potentially not spend the full amount. Mr. Latchford stated we are hiring Tim Haas to verify our thoughts and ideas for the amphitheater.

Ms. Orlich stated there is a not to exceed figure of \$1,500 on that.

- **On a motion** made by Mr. Dabney, seconded by Mr. Freese and voted unanimously by the Board, the Board agreed to hire Haas & Associates to consult on the amphitheater project and authorized preparation of a contract.

Ms. Orlich reported a meeting is scheduled with Steve Hornyak, Michigan City Band President, for Monday, February 9, 2009, regarding the repairs and renovations for the amphitheater. Ms. Orlich asked Mr. Doyle to attend that meeting as a representative of the City Council and as the Park Board Liaison. Mr. Greene also expressed interest in that so he will also attend that meeting. Ms. Orlich stated we want to make the necessary repairs and renovation to accommodate the structural integrity and makeup of the building so we are going to be creating a needs list and of course, their wish list, and we'll tie that in and utilize Dh2w along with Tim Haas to come up with a viable plan to renovate the building. Ms. Orlich stated when more information becomes available she will update the Board.

Ms. Orlich reported she has read the Memorandum of Understanding between the Michigan City Area Schools and the Park Department in regard to the usage of the Michigan City Area Schools for our recreation programs and she would recommend that the Park Board implement that agreement.

Mr. Latchford stated after Mr. Greene spearheaded the effort and reignited the talks between the two groups the Mayor, Mr. Kintzele and he were able to sit down and talk a few weeks ago and were able to come up with a revised Memorandum of Agreement and it is along the same lines as the last one with a few minor changes and Mr. Latchford will review those. Mr. Latchford stated one is that the Park Department would agree not to use the Wolves Den on Sundays except for special occasions and league championship games and the other change is that the Park Department will come up with a standardized application process for any group applying for sponsorship by the Park Department. The application for new groups would be attached to any application that we submit to Michigan City Area Schools. Mr. Latchford stated one of the things he thinks is very important that is still in the Memorandum of Agreement is that we would continue to use past practices as our application process for requesting facilities; meaning the decision remains with Plant Planning. Mr. Latchford stated he thinks what happens is we get too many people involved in the decision making and people may not be involved; may not be aware of the rules, the regulations and the contractual obligations and decisions are made that may not fall in line with the contract so, as we have done over the past twenty years, all applications will go to Plant Planning and Plant Planning will determine if the facility is available and if it is available it is granted and if it not available Plant Planning will tell us why it is not available and then we'll choose the next best alternative. Mr. Latchford stated he hopes the Board can vote on the Memorandum of Agreement tonight and then it will be presented to the School Board at their meeting next Tuesday and hopefully that will resolve this and everyone can get on to much bigger, better and more important things.

Mr. Greene stated Mr. Doyle and he met with Mr. Falls on Tuesday and he took them around through the big Wolves Gym and we saw where some of the floor is coming up and we saw where they have to clean this place up on Sunday and actually it is quite a job; they have to move the bleachers in and out. Mr. Greene stated that they sat down with Mr. Falls and they discussed

different things and we can see their side and he could see the Park Board's side and Mr. Doyle added quite a bit to the agenda and got him thinking about different things. Mr. Falls did a good job of showing us why we shouldn't use the gym on Sundays because that is the only day they can clean that place up and it was quite dirty and we were there on a Tuesday.

Mr. Doyle stated they strongly suggested good communication between he and Jeremy Kienitz so they can probably avoid a lot of people not knowing what is going on; it will make it so much easier to have an understanding if there is a problem where a lot of it can be taken care of before it has to go that far.

Mr. Latchford stated that is another item that is addressed in the Memorandum; good communication.

Mr. Dabney asked to clarify that with the application process and the groups that come in and apply to the Park Department that we still make the decision on who is approved under our programming and then it will be forwarded to the school.

Mr. Latchford stated that is correct; the intent is that we formalize our process and if a group comes along that the school system is not familiar with, their application and approval of that application by the Park Board will be attached to the facility request to eliminate doubt that is really is a Park Department program.

- **On a motion** made by Mr. Milcarek, seconded by Mr. Freese and voted unanimously by the Board, the Board approved the attached Memorandum of Agreement with Michigan City Area Schools regarding facility use.

Ms. Orlich reported Shannon Eason, Debbie Studtman and she are working with John Schaefer on setting up the proper funds to run concessions in-house at the Washington Park beach and the splash pad. Ms. Orlich stated we needed some guidance from them as far as procedures and hiring individuals and the operation regarding that. Ms. Orlich stated the Board was given a job description for the mechanical room operator for the splash pad; this is a very technical position.

Mr. Milcarek asked if there is someone in our Maintenance Department who could fill that position.

Ms. Orlich stated she doesn't believe so. Ms. Orlich stated she was hoping to reach out to other splash pad facilities because it is such a technical position. Ms. Orlich feels this person should have prior knowledge of splash pad equipment, water testing expertise and record keeping ability to record those test numbers. Ms. Orlich stated this is a very important procedure in regard to keeping a water facility. Ms. Orlich stated she gave the Board a large packet regarding several problems with splash pads regarding E-coli and cryptosporidium; it is very apparent in splash pads and they have to be very closely monitored from bodily excrements. Excrement from seagulls or wildlife can definitely infect the pad thereby infecting individuals at that pad. The mechanical room operator will not only be responsible for testing the water but also, watching the pad and sanitizing it when necessary. Ms. Orlich stated there are going to be problems, there

are going to be excretions from kids and that can cause serious illness and that would have to be cleaned off immediately and the pad would have to be shut down and those filters will have to run for quite a long time until we're sure the ph levels are proper to re-open again. Ms. Orlich stated that leads to the next item which was discussed last time regarding the Park Board approving some type of Ordinance that we do not feed any wildlife in Washington Park, the beach or the splash pad areas. Ms. Orlich stated this is a direct link to E-coli and after the seminar we just attended with Dr. Julie Kintzelman, this will directly impact the splash pad. Ms. Orlich stated keeping those ph levels perfect does not ensure that cryptosporidium nor E-coli will not get on to that pad or in our water supply. Ms. Orlich explained the most effective way to do that is through an ultra-violet light system. Ms. Orlich stated she is at a cross road as to whether or not we should entertain that idea. Ms. Orlich stated in the literature the Board received regarding the splash pad, this is happening all over and several people have gotten ill because of it and this is something that we definitely have to avoid. Ms. Orlich stated the splash pad sits in an area that, aside from the cryptosporidium, has an E-coli problem so it is going to be a very integral part to monitor this. Ms. Orlich stated she believes we need an operator that has that experience and been through that before. Ms. Orlich stated this is not to say we are going to avoid that; we might not; we might get lucky and might avoid it but we have to put the proper safety netting in place to try to avoid cryptosporidium and E-Coli at all costs.

Mr. Freese asked Ms. Orlich if there is a training program for this; how do you get to know all of this; is there a school.

Ms. Orlich stated there is not a school. Ms. Orlich stated she learned through trial and error. Ms. Orlich stated at the previous place she was at they were fortunate; they didn't have any outbreaks of cryptosporidium but it is becoming widespread now because a lot of communities are venturing into splash pads so it just has to be monitored very closely. Ms. Orlich stated she doesn't know if the Board was told that. Ms. Orlich stated a salesman is a salesman; they are going to tell you that you turn it on on Memorial Day and your turn it off on Labor Day. Ms. Orlich stated she learned through trial and error and the only thing she can do is to reach out to previous operators of splash pads that she knows are qualified in water testing and keeping those records for us to use in case of any problems that might come up. Ms. Orlich stated she is hoping to get somebody who is experienced enough where we can maybe get a second person. Ms. Orlich stated the park will be in operation around 72 hours per week, seven days a week. Ms. Orlich stated she would like to get somebody that she knows or that she feels would be experienced and then maybe a part time person that the operator can train for the extra hours that the operator would not be there. Ms. Orlich stated this is a very important part of the splash pad and this is not to say you are going to avoid E-coli or cryptosporidium, but the better the operator and the more knowledge they have will make our chances a little bit better. Ms. Orlich stated aside from that, the splash pad has to be guarded. We'll have to employ, or utilize some of the parking staff or lifeguard staff that haven't reached their forty hour limit, one or two part timers to watch the pad. Ms. Orlich stated the equipment operator is going to be in charge of the equipment and any excrement or anything on the pad that needs to be cleaned up but we also need guards to watch the kids. Ms. Orlich stated children have to be in swim diapers; you can't allow a baby or a young toddler without a swim diaper; if they have an accident that is a direct link to cryptosporidium. Ms. Orlich stated they can't really run in there and play and if they do

and a kid falls and has a bloody nose or something that pad has to be cleared out for awhile just basically to ensure the parent that everything is going to be ok; that is pretty much a sense of safety. Ms. Orlich stated it does have to be manned and it does have to be monitored very, very closely.

Mr. Latchford asked Ms. Orlich if we could broaden the responsibilities of the operator beyond just the mechanical side to incorporate the items you just went over. Mr. Latchford stated he thinks they could probably accomplish both at the same time; they can be an expert at the back washing and testing and when they are not doing that they can be out on the pad taking care of the other things because when those accidents do happen they can clear everyone off and then take care of the rest and maybe we could have multiple people so we have backups; all of the employees would then have some sort of knowledge on the operation side and the mechanical side.

Ms. Orlich stated because of the amount of hours that the pad is open, she was hoping basically to just hire one operator because that operator will have to be paid more than the other individuals because of their responsibilities and they basically would manage that team of people. Ms. Orlich stated she is hoping to reduce costs a little bit by the operator hiring an assistant and training that assistant and that assistant maybe can be classified in a lower category than the operator. Ms. Orlich stated by utilizing some of the lifeguards or parking people, especially the lifeguards who are knowledgeable in water applications; I think it would be an assurance for us to run a little easier operation. Ms. Orlich stated she will broaden the scope of that.

Ms. Orlich stressed to the Board that we adopt some kind of an ordinance through the Park Department before we take it to the Council regarding us instilling “no feeding” of birds or wildlife throughout the beach, the splash pad and Washington Park; it is a direct link to E-coli.

Mr. Donoghue suggested, based on Ms. Orlich’s report, we have a very close neighbor here who has jurisdiction over its grounds and over its water and that we request they cooperate and Mr. Donoghue is talking about the Port Authority because people feed the ducks and the geese over there constantly and those geese and those ducks are over here constantly. Mr. Donoghue stated it just seems to him that if that is your plan to eliminate that problem we would need the cooperation of the Port Authority.

Mrs. Eason stated she asked the Mayor to recommend how we should proceed with this; should we go on a Board level between the Park Board and the Port Authority or would he rather do a City Ordinance via the City Council so we would have some way to enforce the violations. Mrs. Eason stated we are going to look at what the City of Racine is doing but Ms. Orlich wanted to let you know that this is going to be coming down the pipe real soon, probably by your next Board meeting so this can be addressed for the 2009 season.

Mr. Dabney asked if there is a certain distance away that this would have to take place in order for it not to upset the balance.

Mrs. Eason stated in our meetings we addressed not only Washington Park but Winding Creek Cove, Hansen Park, and Karwick Nature Park and any place the City has property in the Trail Creek water shed because eventually it can affect our beaches but as Ms. Orlich stated, right now the E-coli in the sand is a problem and if we can quit feeding the birds, that is something we can do quickly, easily and at no cost to the Departments.

Ms. Orlich stated we also learned a couple of other things and we are going to change our maintenance of the beach area by lifting the finisher on the beach sanitizer and not utilizing it anymore. We will just deep tine the beach, particularly when the beach is damp or wet. This will help reduce the E-coli existence so we are going to adopt that. Ms. Orlich stated we were given other ideas as far as grading the beach so the wave action, which doesn't appear to be much at our beach, but the more you can grade the beach up and reduce wave action, the less E-coli would live on the beach. Ms. Orlich stated with wave action, the water will form into pockets and when the water is warm it produces bacteria and the bacteria lives in the sand so we are going to change and adopt some of the maintenance practices to better serve the beach and the people in Washington Park so we can reduce the number of advisories and/or closings.

Ms. Orlich stated Mrs. Eason is working on a grant with I.D.E.M. and asked Mrs. Eason to bring that up.

Mrs. Eason stated I.D.E.M. has offered us a grant for trash can lids for Washington Park and any City property located along the Trail Creek watershed. We are applying for that grant and Mrs. Eason believes the deadline is around the 18<sup>th</sup> of February. We are working with Al Walus and the Sanitation Department to get some numbers together on different testing methods and hopefully we will be successful with that.

Mr. Latchford what the testing methods are for.

Mrs. Eason answered water quality; the whole beach management process is going to tie into the Watershed Steering Committee's ideas as well as management by the Park Department and the Port Authority along with I.D.E.M and I.D.N.R.; there are a lot of people collaborating to increase the quality of our water and our beach system. Mrs. Eason stated the meetings we had in the past two days were very instrumental and we found a lot of the ideas won't cost anything so we will start out small with those; it will take years for us to identify sources of contamination but where we know that Racine had a problem and the process has no cost involved, we will try it. Mrs. Eason stated the I.D.E.M. grant is for garbage can lids.

Ms. Orlich stated the maintenance we can do in-house should hopefully help us in reducing beach closures and/or advisories.

Ms. Orlich updated the Board on the Phase I of the Washington Park Electrical Upgrade Project. Ms. Orlich stated a few meetings back she gave the Board a punch list that she had sent to SCO Engineering and with that punch list, Jim Dines from Marquiss Electric had come to the office. Ms. Orlich stated they discussed Phase III and also discussed the Phase I problems that were in existence. Ms. Orlich stated she has Mr. Westphal working with Jim Dines and we found out

that a certain amperage of a micron was to be utilized in the electrical panels and after further investigation, that was not used so between Jim Dines and Darren Westphal, SCO Engineering has been notified that the microns in the electrical panel were not correct and we are working on trying to get all of those changed out which is roughly a \$23,000 mistake that SCO Engineering will have to handle themselves; this was a mistake on their part.

Ms. Orlich stated we tabled the appeal process for Rodney McCormick and each of you received information in your mailboxes regarding the Park adopting an appeal process. Ms. Orlich asked the Board to look that over and if they have any changes, questions, or revisions we can make those and we would like to move diligently on that so we can take care of this in a timely manner.

Ms. Orlich reported there has been no vandalism; it has been too cold.

Mr. Freese asked Mrs. Eason if there is any grant money that can be used to educate the public on the proper use of using the trash cans. Mr. Freese reported he is down here a lot in the summer and if it is not within an arm's reach they don't utilize that stuff and if they happen to go by and get close, they don't rebound their shot and put it back in; it just lays there. Mr. Freese stated he thinks the idea is great but we need to get cooperation from the people who use this beach.

Mrs. Eason stated we have signage up and we are going to get templates to spray paint the cans for the beach with the City Ordinance and stating there is a fine of up to \$2,500 for littering and we think that will open a few eyes on the beachfront. Mrs. Eason stated they are hoping the lids on the cans will help with litter control. Mrs. Eason stated we will do the beach cleanup again in April and that serves as an educational process where people can see how much we are actually collecting. Mrs. Eason stated beyond that, we welcome any ideas on educating the public.

Mr. Freese asked if the cans have to be green, can we paint them bright orange so they stand out so people can see them.

Mrs. Eason stated that is not a bad idea; we could also put the language on the cans in a fluorescent orange as an eye grabber. Mrs. Eason stated she will mention that to Mr. Westphal.

Mr. Milcarek stated if you go to the Port Authority they have dumpsters about fifty feet apart and when the first one gets full everything is piled around it and down the line another fifty feet away there are empty dumpsters yet they still pile it around the first one and Mr. Milcarek doesn't know how you educate people for that.

Mr. Dabney stated in terms of education, when was the last time somebody has had a \$2,500 fine, does anybody know, has it been enforced. Mr. Dabney stated he thinks that would open up eyes.

Mrs. Eason stated she was shocked when she looked up the Ordinance; it is up to \$2,500.

Mr. Dabney stated that would get his attention if he had to pay \$2,500 for throwing a cup on the ground.

Ms. Orlich stated Racine, WI did something pretty neat. They had a problem with dogs and dog droppings so they took flags and flagged everyplace on their beach where there were dog droppings and the newspaper came and took a picture of all of the flags and the community was horrified because they realized that is our beach and this is happening so it didn't, of course, correct the problem, but it curtailed it a little bit. Ms. Orlich stated if we can't control the garbage, maybe we do something along those lines and let Michigan City know this is your beach and this is what people are doing to it and we're working to increase our efforts in containing E-coli and to provide you a clean beach so there aren't any closings and maybe it would wake people up; it woke up Racine, WI. So, maybe if we flag where all the garbage happens to be, people would see that.

Mrs. Eason stated that is something we could do during our beach cleanup in April; we could ask NIPSCO or other utilities for flags.

Mr. Freese reported Zoobilee will be held on March 14, 2009 at Blue Chip Casino.

Mr. Donoghue reported yesterday we received a Tort Claim Notice from two individuals; the first one being Scott Kaletha and the second one being Michael Schwanke. The claims stated are identical and they arise from the Recreation Department's Youth Baseball Program and the hearing that was conducted generally by the Park Board last October. The claims are alleging that there is a statement of defamation that has been made by the Park Department. They indicate and are alleging the former Superintendent Mr. Garbacik has made statements of defamation and then they are alleging that there has been willful abuse of the rules and the process of the Park Board which has damaged these two individuals and they are claiming a loss of \$700,000. Mr. Donoghue stated we will attach these claims to the minutes of the meeting tonight; we will forward them to the insurance carrier which defends the Park Department. Mr. Donoghue stated these claims are false and the Department has extensive records of these incidents and these claims and those records will be used in defense of the Park Department by the insurance carrier. Mr. Donoghue stated he has prepared a letter to Mr. Tom Cipares who represents the insurance company. Mr. Donoghue is sure Mr. Cipares has received other notification of this because this claim was also made against the City of Michigan City and the City Council of Michigan City so it is a rather broad claim of damage by these individuals. Mr. Donoghue stated we'll handle this in the usual way. Mr. Donoghue reminded the Board this is somewhat similar to the case of Brown vs. the City of Michigan City and we are fortunate to have that as a prior experience along the lines of what the Park Board's responsibilities are and Mr. Donoghue sent the Board copies of the Brown opinions and he will be attaching those to the minutes of the meeting tonight. Mr. Donoghue stated, as he told the Board at the last meeting, he probably will not be the Attorney for the Park Board at the time that these matters come to fruition as far as the claims go but he will be available, of course, to continue to work in the defense of the Park Department. Mr. Donoghue stated with the Brown cases on the minutes there will be some ability for our Attorneys to use that as our basis for authority.

Mr. Freese asked how they came up with \$700,000.

Mr. Donoghue stated we will be finding that out. Mr. Donoghue stated this is simply a notice; this is to tell us, and the law requires that that they are going to file a lawsuit against you. Mr. Donoghue stated when they file the lawsuit they will be forced to explain what Mr. Freese has just asked. Mr. Donoghue stated also, the Board will recall we discussed the rules of hearing and so forth and there were a couple of changes the Board wanted to make after the experience of the prior hearing and one we discussed was limiting any hearing, the time and duration, to three hours or less. Mr. Donoghue stated he provided the Board members with an updated set of rules relating to that. Mr. Donoghue stated in addition to that we discussed the fact that it should be clarified that Roberts Rules of Order do apply to your meetings although everyone knows that; that is what the law says, but that is now clarified. Mr. Donoghue stated further, in case of a tie vote, and the Board has four members so a tie vote can occur, whatever motion is being considered at that time, that motion fails. Mr. Donoghue stated those are the things we have discussed and the Board has a set with those changes and it would be appropriate for you to approve those changes tonight and file those with the minutes of the meeting.

- **On a motion** made by Mr. Freese, seconded by Mr. Milcarek and voted unanimously by the Board, the Board approved the attached changes to the Notice of Appeal to the Park and Recreation Board.

Mr. Donoghue stated he believes Ms. Orlich mentioned the Rodney McCormick hearing has been cancelled; it was scheduled for tonight. Mr. Donoghue stated he believes the Board will consider that, if not tonight then at another meeting, re-scheduling that hearing. Mr. Donoghue stated in discussing this he is sure Mr. Kienitz has a report to the Board on that particular subject tonight.

Mrs. Eason reported, regarding Adam's Park, we would like to schedule to public hearing dates on March 5<sup>th</sup> and 19<sup>th</sup>, 2009 at approximately 6 p.m. or immediately following the Board meetings.

The Board agreed to hold public hearings for the Adams Park project on March 5<sup>th</sup> and March 19<sup>th</sup>, 2009 at 6 p.m. or directly following the Park Board meetings.

Director of Golf Jason Richardson asked the Board for approval to seek a beer and wine license so we can start serving beer out at the golf courses. Mr. Richardson stated he has done a little bit of research on this as far as the cost for the permit; there are permits available for beer only and beer and wine. Mr. Richardson stated the cost for a beer permit would be \$500 and the beer and wine, he believes, is \$750, so for an extra \$250 we could offer wine which he thinks would be the route we would want to go. Mr. Richardson stated there are no three way licenses available which include beer, wine and liquor and Mr. Richardson stated he doesn't think we would want to tackle the liquor part at this point anyway.

Mrs. Orlich stated we would need a separate permit for each course.

Mr. Richardson stated each course has to have its own permit so we would have to get one for the north course and one for the south course.

Mr. Latchford asked if we could sell out of one course and have patrons take it to the other course.

Mr. Richardson stated according to Excise, no, because they would be crossing a public road.

Ms. Orlich stated we are currently working with Mr. Cipares regarding insurance and he will get back with us by the next meeting so we can provide you with a premium regarding that. Ms. Orlich stated she doesn't think it will be too much because we won't be selling beer or wine during the off season so, in his estimate, the cost would be reduced for that.

Mr. Latchford asked if we are also looking into fixtures and types such as packaged or draft.

Mr. Richardson stated we would only sell cans; the bottles could be broken on the course.

Mr. Latchford asked if a complete proposal would be put together including the cost of the equipment, sales projections and profit margins.

Mr. Richardson answered yes.

Mr. Freese asked if the permit will be seasonal.

Ms. Orlich stated it is not seasonal but we will only be selling seasonally which would reduce our insurance.

Mr. Freese asked once we get this if we have to renew it every year.

Ms. Orlich stated we would have to pay the license fee every year; we wouldn't have to renew it every year.

Mr. Latchford asked if that would provide any other opportunity for the Park Department in any other locations such as the Senior Center or Memorial Hall.

Mr. Richardson answered no.

Mr. Latchford stated we would need separate permits for each location.

Mr. Richardson stated yes.

Mr. Donoghue asked if the permit is for one year or two years.

Mr. Richardson stated he thinks it is for one year only; he would have to check into that.

- **On a motion** made by Mr. Dabney seconded by Mr. Milcarek and voted unanimously by the Board, the Board gave Mr. Richardson permission to obtain beer and wine licenses for the north and south golf courses.

Recreation Director Jeremy Kienitz stated in regard to the Rodney McCormick appeal hearing that needs to be rescheduled, on January 28, 2009 the Recreation Committee took the time to meet with Mr. McCormick to discuss his 2008 suspension from the Adult Men's Basketball Program and his suspension in general from all of our activities. The meeting was attended by Mr. Kienitz, Dan Messina, Brian Studtman and Dave Greer. Mr. McCormick was there along with Amy Penrod-Spicer. Absent from the committee was Charles Hampton. Mr. Kienitz stated they met and discussed Mr. McCormick's 2008 suspension from the Adult Basketball League and he was looking for reinstatement totally, into all Park and Recreation activities. The committee decided that afternoon, upon two different motions, one, to uphold Mr. McCormick's lifetime suspension in our Adult Basketball and recreational programs and two, to allow Mr. McCormick reinstatement as a coach or an official in the Youth Basketball League and allow him to be at facilities where Park and Recreation activities are being held. Mr. Kienitz stated he wanted to report that to the Board this evening and he would be happy to answer any questions the Board may have. Mr. Kienitz wanted to inform the Board of what happened and where we stand and where Mr. McCormick's status stands with the Park and Recreation Department.

Mr. Latchford thanked the committee for getting together so quickly because there was a sense of urgency at the last meeting so children could participate in that league. Mr. Latchford stated he knows everyone went out of their way to hear that; it was very expedient and Mr. Latchford thanked the committee.

Mr. Donoghue reported regarding encroachments, Mr. Mark Daw who appeared before the Board recently did finally make payment of the amount that he has owed the Park Department. Mr. Daw has received his lease and is all to the good right now. Mr. Donoghue stated he reported to the Board at the last meeting regarding Mr. Henry Bindas. Mr. Donoghue has met with Mr. Bindas and it went very well. Mr. Bindas was here on Tuesday with his Real Estate representative and he signed his lease. Mr. Bindas requested additional time to raise the money he owes and that is a little over \$8,000. Mr. Bindas has an almost \$1,300 per year lease which he is very happy to pay; he has a rather large 2,400 square foot encroachment. Mr. Bindas is in the construction business and he has some projects that are coming to completion and he indicated he would have his payment in around 90 days or around May 5, 2009. Mr. Bindas understands the lease will not be approved until he makes that payment. Mr. Donoghue reported we are holding Mr. Bindas' signature to present to the Board at the time he makes his payment. Mr. Donoghue thought the meeting went very well and he recommended the Board allow him that time to raise the money, receive the money and present the lease to the Board to approve. Mr. Donoghue stated Mr. Bindas seemed to be a very nice man; he is an immigrant from a foreign country and once we explained it to him he understood what this was all about.

Mr. Latchford asked where that leaves us now.

Mr. Donoghue stated he thinks we have four properties left, other than the firebreak people, and with regard to the firebreak people he spoke to Carl Greci last week and reported to him that as of this time we have not had positive responses from those people. Mr. Donoghue stated if the Board will recall they were told on December 1, 2008 they were to begin making lease payments at that time because of the change in their status as far as having a concrete walkway. The Fire Chief has indicated that is not a firewall and so Mr. Donoghue has asked Mr. Greci to take the next step regarding putting these owners on notice that they could be subject to lawsuit without their cooperation.

Mr. Latchford asked if leases have been forwarded to them.

Mr. Donoghue stated yes we did and we asked them to respond before the end of December and they did not and so the next step is for Mr. Greci to impose a little pressure on them and he indicated he will do that and Mr. Donoghue will report back to the Board at their next meeting.

Mr. Milcarek asked if we have heard anything from these owners.

Mr. Donoghue stated we got one letter from one owner who said it was the holidays and so forth and they were traveling and that was fine, and after the holidays they would get back to us. Mr. Donoghue stated this is fairly long after the holidays and we have not heard from that person at all.

Mr. Milcarek asked if Mr. Bindas has paid his application fee.

Mr. Donoghue stated it is included in what he owes us and he understands that.

Ms. Orlich asked the Board to table the Construction Contract with A. Hattersley & Sons, Inc. to the February 19, 2009 Park Board meeting.

- **On a motion** made by Mr. Freese, seconded by Mr. Dabney and voted unanimously by the Board, the Board agreed to table the Construction Contract with A. Hattersley & Sons, Inc. to their meeting of February 19, 2009.

Mr. Donoghue reported regarding the Construction Contract with Woodruff and Sons, Inc. there were a couple of items regarding changes they are showing that needed to be made and one of them is because there is no building so the builder's risk does not take effect and that is fine and the other is that there are not sub-contractors for them on this project so they scratched the clause on sub-contractors. Mr. Donoghue asked Mr. Latchford to initial those two places and if it is approved the contract can be signed.

- **On a motion** made by Mr. Freese, seconded by Mr. Dabney and voted unanimously by the Board, the Board approved the attached Construction Contract with Woodruff & Sons, Inc. for water and sewer lines and asphalt removal at the Oasis Splash Park and agreed to issue a Notice to Proceed.

Ms. Orlich reported Woodruff & Sons, Inc. have been on site and the locates have been done already. The reservoir tank should be ordered within the next five days and Woodruff will be the first line of construction out here for the splash pad and they will be moving rather quickly once the tank is received so we should see something happening within the next thirty days.

Mrs. Eason reported to the Park Board the 2009 Lakefront Art Festival at your last meeting on January 22, 2009 and the Major Event Lease Agreement is before the Board for signature tonight. Mrs. Eason reported this is the same agreement and fees as last year with the exception can fee which were increased by \$1 each to cover the cost of our bags.

Mr. Latchford stated at the last meeting the Board approved entering into the lease.

Mrs. Eason stated the Board approved the event in concept and the dates and now the lease needs approval and signature.

- **On a motion** made by Mr. Milcarek, seconded by Mr. Freese and voted unanimously by the Board, the Board approved the attached Major Event Lease Agreement for the 2009 Lakefront Art Festival.

Mrs. Eason introduced Mrs. Shannon Chavis of Knapp School.

Mrs. Chavis stated she was here last year for the same event and was not planning on coming back to the Board again but she has another group of first graders and they said if the other class could do something nice, why couldn't they and that is why she is here. She is hoping the Board will consider waiving the fee for the Senior Center again for their pancake breakfast at the Senior Center. Mrs. Chavis stated it was a wonderful success and everybody loved the great facility and we really appreciate you considering this.

Mr. Latchford stated he believes last year they rose quite a bit of money for Riley's.

Mrs. Chavis stated she would never have guessed; they had between 800 and 1,000 through the doors and she never guessed that would have happened. They raised around \$5,000 which was a lot more than they expected.

Ms. Orlich asked what the money was used for.

Mrs. Chavis responded Riley's Children's Hospital; the class went down and presented a check and we were one of the top donations in the state and we were a group of first graders.

Ms. Orlich stated that is great.

Mr. Freese congratulated Mrs. Chavis and her class stating that was a great feat for anyone.

Mrs. Chavis stated a lot of service organizations helped them out; the Exchange Club, Masons, Exchangettes and many others.

Mrs. Eason reminded the Board that last year they waived the fees for this event and the security deposit stating it was an extension of the classroom and we are partners with the school system.

Mrs. Chavis stated her first graders asked her to relay to the Board that they are poor and don't have the money for this.

Mr. Greene asked Ms. Chavis for a copy of their flyer to distribute to the School Board so they know about it.

Mr. Latchford told Mrs. Chavis her timing is good in light of the new agreement and shows a spirit of cooperation.

- ❑ **On a motion** made by Mr. Milcarek, seconded by Mr. Freese and voted unanimously by the Board, the Board approved the attached request submitted by Mrs. Chavis of Knapp School to use the Senior Center on Saturday, March 14, 2009 for a pancake breakfast fundraiser and agreed to waive all fees.

Mrs. Eason reported Lyn Isbell of the Soul Steppers in requesting permission use the Senior Center on Saturday, March 21, 2009 and the history of the Board's approval in the past is attached. They are asking for use of the facility again this year and the 50% not-for-profit discount.

- ❑ **On a motion** made by Mr. Dabney, seconded by Mr. Freese and voted unanimously by the Board, the Board approved the attached request submitted by Lynn Isbell of the Soul Steppers to host their sixth annual Gala Ball at the Senior Center on Saturday, March 21, 2009 and offer them a 50% not-for-profit discount.
- ❑ **On a motion** made by Mr. Milcarek, seconded by Mr. Dabney and voted unanimously by the Board, the Board approved city claims filed on account of appropriations for the Parks and Recreation Department in the amount of \$22,983.44.
- ❑ **On a motion** made by Mr. Milcarek, seconded by Mr. Freese and voted unanimously by the Board, the Board approved Payroll #3, 01/11/09 through 01/24/09, in the amount of \$43,399.12.

Mr. Milcarek reported B & E Marine donated \$200 for the Holiday Lights.

- ❑ **On a motion** made by Mr. Milcarek, seconded by Mr. Freese and voted unanimously by the Board, the Board agreed to accept the donation from B & E Marine.
- ❑ **On a motion** made by Mr. Milcarek, seconded by Mr. Freese and voted unanimously by the Board, the Board approved payment out of the Zoo Endowment Fund in the amount of \$2,128.52.

Mr. Milcarek reported invoices totaling \$2,487.00 were paid through the February 2, 2009 Board of Works meeting.

Mr. Dabney commented he is really happy we are getting a resolution to the whole Michigan City Schools ordeal; that was going on when he started a year ago and he is really happy to see everyone moving forward on that without having to throw taxpayer's money down the drain.

Mr. Freese echoed Mr. Dabney's comments. Mr. Freese thanked Mr. Donoghue for his work on the encroachments stating it looks like we are finally getting to a point where we can see the end and Mr. Freese knows a lot of time and effort has been put in on that. Mr. Freese thanked Ms. Orlich for enlightening the Board on the splash pad, this has been an eye opener so thank you for your hard work and bringing us that information; he had no idea.

Mr. Latchford thanked B & E Marine for their donation this year. Mr. Latchford stated cooler heads have come together regarding the school system and hopefully we can get this resolved and get beyond this and save the taxpayer's dollars.

Mr. Donoghue stated he was thrilled when he saw the Memorandum of Understanding that relates to the schools and Park Department; it is wonderful work that was accomplished by Mr. Latchford and the Mayor. Mr. Donoghue told Mr. Latchford he knows this has taken a lot of effort on his part and he compliments him for the work he has done; it is a major and important subject and like Mr. Dabney was saying we would have wasted an awful lot of money if you were not able to find our way out of this and Mr. Latchford did an excellent job there.

Mr. Doyle commended the effort put into it and he knows it took longer than we expected but where there is a will there is a way. Mr. Doyle stated as far as the pollution in the Lake over here with the birds; he knows at Patriot Park, when the dump was open, it became a dumping ground at Patriot Park with all of the chicken bones and everything the scavengers would carry over. Mr. Doyle stated down here they sit on top of the roofs and wait for people to leave so they can pull their garbage out of the cans. Mr. Doyle stated if the Park Department needs help on the Ordinance let him know so we can get that in place as soon as possible. This is a good thing and it is not only here, there are other places that have the same problem on the smaller lakes; you don't realize how bad it is but there are so many birds and Mr. Doyle has seen the droppings in this park.

Mr. Greene stating speaking of the pollution on the Lake, being that he is here sometimes at 5:30 a.m. in the morning there are people that come and go through all of the dumpsters and the garbage cans looking for aluminum cans. They leave the dumpsters at the Port Authority wide open, they do usually pick up the garbage they throw on the ground and throw it back it, but that has to stop. There are probably five or six people that come here every morning looking for aluminum cans and going through all of the garbage cans and they are probably as bad as the birds. Mr. Green stated as far as the agreement with the Park Department and the Michigan City School Board, hopefully when he goes back he will take a copy of that agreement because being a member of the School Board he has not seen that copy yet and he would like to take that copy and make copies and get it to everyone so they have it in their packets tomorrow so we can get

this thing resolved. Mr. Greene stated, like everybody has said, it is best this way. Mr. Greene stated, like everybody has said, it is best this way, because the only ones who would benefit are the lawyers.

- **On a motion** made by Mr. Freese, supported by all members of the Board, there being no further business, the meeting was adjourned at 6:07 p.m.

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Jan Orlich, Superintendent  
Michigan City Park Department

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Tom Milcarek, Secretary  
Michigan City Park Board

Attachments to the February 5, 2009 Park Board meeting:

1. Memorandum of Agreement with Michigan City Area Schools
2. Tort Claim Notice Filed by Scott Kaletha
3. Tort Claim Notice Filed by Michael Schwanke
4. Brown v. City of Michigan City, Indiana Opinion of the United States Court of Appeals For the Seventh Circuit
5. Brown v. City of Michigan City, Indiana Opinion of the United States District Court Northern District of Indiana South Bend Division
6. Revisions (REV. 020509) to the Notice of Appeal to the Park and Recreation Board
7. Recreation Committee Meeting Minutes January 28, 2009 Regarding Rodney McCormick
8. Encroachment Status Report Dated February 5, 2009
9. Construction Contract for Water and Sewer Lines and Asphalt Removal for the Oasis Splash Park with Woodruff & Sons, Inc.
10. Notice to Proceed to Woodruff & Sons for the Oasis Splash Park
11. Major Event Lease Agreement for the 2009 Lakefront Art Festival
12. Request from Mrs. Chavis' 1<sup>st</sup> Grade Class at Knapp School to Host a Pancake Breakfast Fundraiser at the Senior Center
13. Request Letter from Lyn Isbell of Michigan City Soul Steppers Drill Team to Use the Senior Center for Their Annual Spring Gala
14. Claims Docket Allowance for Vouchers Dated February 5, 2009

Minutes prepared by Shannon Eason