

The Michigan City Park and Recreation Board met in regular session on Thursday, August 30, 2007 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. McKee, Latchford, Milcarek and Mr. Freese (4)

Absent: None (0)

Also present were: Darrell Garbacik, Park Superintendent; Patrick Donoghue, Park Department Attorney; Joe Doyle, City Council Liaison; Shannon Eason, I.T. Manager;

- **On a motion** made by Mr. Freese, seconded by Mr. Milcarek and voted unanimously by the Board, the Board approved the minutes of the August 9, 2007 Park Board meeting.

Park Superintendent Darrell Garbacik reported he is sure the Board is well aware we had a little reminder on the one year anniversary of the storm of 2006. On August 23, 2007 we had another storm but it was not as severe and we had nowhere near the damage we had in 2006. Mr. Garbacik reported we lost so many trees last year so it minimized the loss of trees this year which amounted to approximately 10 more trees down in Washington Park. Mr. Garbacik personally thanked Mike Charbonneau and NIPSCO for getting to the park as expeditiously as possible to help us out. In particular the Smooth Jazz at South Shore festival was scheduled for Saturday and we found out the park had power from one end to the other and the only area that didn't have power as of Saturday morning was the Amphitheater area. So again, NIPSCO was able to get us out of a bit of a crunch there. Ironically, we ended up having some generator problems at the Jazz concert. There was a problem with a generator that was supplying the feeds for the stage lighting as well as all of the audio equipment. NIPSCO ended up unhooking everything from the generator and tapping it into our power supply in the Amphitheater which ended up saving the show. Mr. Garbacik thanked NIPSCO again for everything. Mr. Garbacik reported that we received a second check from St. Paul Insurance for approximately \$43,000 for the 2006 storm damage. We originally received a \$100,000 draw. We have very little work remaining in repairing the damage from last year's storm. Mr. Garbacik reported that he found out that just under \$9,000 of sidewalk and paved area damage in Washington Park and Gardena Park is not covered. Mr. Garbacik reported between the Mayor, the City Controller and the

Board of Works we will be getting that fixed as well. The Lakefront Art Festival was held last weekend and it was a tremendous success despite some lousy weather but not necessarily severe weather. Despite the weather Mr. Garbacik has been told the show was very successful. Mr. Garbacik reported it was a pleasure working with Glen Lubeznik and the volunteers and staff for the Art Festival. Mr. Garbacik stated in speaking with the Mayor and as a part of our capital request and the need to evaluate the entire grid of power capacity down here in all areas of Washington Park. The Mayor has given Mr. Garbacik instructions to request proposals to get a consultant to layout a plan of what we should do and then get to a point where, in the future, we can seek proposals to implement that plan. Mr. Garbacik is very excited about that; it is well needed. Mr. Garbacik reported a tree replacement plan will be implemented in September or October. The trees have already been ordered working with the City's Arborist Frank Sileheimer. The replacement will begin this year and will include an approach to manage a tree inventory here in Washington Park. Mr. Garbacik stated prior to the storm we had removed 8 trees on our own. We are hoping to remove everything that needs to be removed, that has not been removed by Mother Nature, once and for all and then we'll begin the replacement plan.

Ms. Kreidler asked Mr. Garbacik if there is anyway to check trees like the one at the entrance that blew over in the wind and was hollow.

Mr. Garbacik answered yes and that is where Frank comes in. The fact that the tree was hollow does not necessarily constitute it being a damaged, diseased or dead tree rather that is the nature of some species. Mr. Garbacik stated that he is no expert, but if he understands this correctly, that in itself does not constitute a bad tree. Mr. Garbacik stated we have some problems at Gardena Park as well and we need to remove 11 trees there.

Ms. Kreidler stated that she hopes we can sell the firewood.

Mr. Garbacik responded we will have to discuss what to do with all of the wood and that might be a very good suggestion.

Mr. Garbacik reported during meetings with the Mayor we discussed looking into and pursuing getting in contact with the D.N.R. to get involved in some controlled burns throughout Washington Park, mainly within the Fedder's Alley area as well as across Lake Shore Drive on Bismark Hill. We are starting to look into that and Mr. Garbacik will keep the Board and the public apprised of those situations as they develop. Mr. Garbacik reported we have been talking about Mott's Woods for some time and the Board may recall that a citizen approached you in the past year about a situation concerning tree trimming, easements and power that runs through Mott's Woods. Mr. Garbacik expects that within the next couple of weeks that Mr. McKee, Mr. Donoghue and himself will be called to a meeting with the Mayor and representatives from NIPSCO so we can wrap up and finalize what needs to be done there. Mr. Garbacik stated we will participate in our 2008 budget workshop in the Mayor's Conference room later tonight with the City Council and we look forward to that. Mr. Garbacik read a letter from Mr. Richard D'Arcangelis, who is the Director of the Municipal Band, thanking the Park Board and Park Department for all of their help that lead to a successful season and that letter was carbon copied

to Mayor Oberlie. The band concerts have come to a conclusion. Mr. Garbacik reported that Labor Dayz opens tomorrow in Washington Park.

Mr. Doyle reported the weather forecast looks great, the entertainment is outstanding this year and he hopes everyone will come out and enjoy themselves. There have been a few new activities added for young kids this year.

Mr. Garbacik reported the Department received some very nice letters from the National Softball Association this week and he will have a final presentation for the Board at their next meeting. Mr. Garbacik reported we experienced some vandalism since the Board's last meeting at both Gardena and Hansen Parks by way of graffiti.

Mr. Donoghue asked Mr. Garbacik if the contractor has started working on the Primate House Renovation Project.

Mr. Garbacik stated he and Mr. Martinez met with the contractors for an on-site pre-construction conference a couple of weeks ago and as of last week they have mobilized and are on site. Mr. Garbacik has not been over there this week but the project has started.

Mr. McKee asked if the electric consulting work is in tandem with what we were handed last week regarding the Amphitheater or are these two separate issues.

Mr. Garbacik answered that he is not sure if they will run in tandem. To some degree there is a spill over or a direct connection but the Amphitheater proposal was beyond just a look at electrical systems. These are two separate projects but in some cases there would be a spill over there. Mr. Garbacik has communicated with the Mayor in regard to our discussion at the Board's last meeting in regard to the proposal to the Amphitheater and he has not received confirmation as to whether the Board of Works is going to accept that proposal or not. Mr. Garbacik needs to follow up with the Mayor as to the status of that.

Mr. McKee asked Mr. Garbacik for a status report on the soccer fields.

Mr. Garbacik reported that we have continued to evaluate and coordinate and have continued to receive great help from the contractor that did the work there. What has occurred since the last time we discussed this has been a very methodical approach that started out with concentrating on the irrigation of the area to make sure the new growth did not become dormant. It was a struggle and a challenge for us for various reasons but we did as good a job as possible. The next step involved planning for fertilizer and chemical applications; some of which could not be done because of all of the rain but we will be able to perform within the means of our own budget. The contractor is going to do our fall application at no additional cost to the Park Department. Mr. Garbacik stated as we move into 2008 a program and budgetary consideration is incorporated to further manage that area next year. Mr. Garbacik believes at this point something would have to go terribly wrong or we would have to run into something unexpected that would prevent the soccer group from playing their spring/summer season over there next year. We have participated in quarterly meetings with the Soccer Board. At the last meeting we

all agreed, after much speculation, to plan on not playing there in the fall and giving that growth the best chance possible to get strong.

Mr. McKee asked if Mr. Durham or the contractor has inspected the area and given us a status report of what the condition should be and what the condition actually is.

Mr. Garbacik stated the contractor and John Pavy from Haas & Associates have inspected it. Mr. Garbacik has been on-site and what he is being told is everything is right where it needs to be and everything is looking good and we should be in very good shape come the spring/summer season. Mr. Garbacik stated we have done some additional work in the perimeter areas opening some things up to allow the drainage to work better. It is getting a lot of attention.

Mr. Latchford asked in regard to the possible electric upgrades he would like Mr. Garbacik to contact the Port Authority because they upgraded their electric a couple of years ago for the Boat Show and they might have a contractor that would work for us. Mr. Latchford asked Mr. Garbacik for an update on the proposed soccer building.

Mr. Garbacik answered unfortunately we don't have enough funding to accomplish the soccer building at this time.

Mr. Latchford asked Mr. Garbacik if there are any plans to seek funding to build the kind of building he wants.

Mr. Garbacik stated there has been discussion and speculation as to various alternatives that can be looked into to get this accomplished but no final decisions have been made and we have, through the budget process with the Mayor, listed that as a priority and something that we really would like to see get accomplished. The Mayor is well aware of this. We would like to get a building out there in the spring or summer but Mr. Garbacik cannot tell the Board at this time they have a concrete plan in place or funding.

Mr. Milcarek reported he attended the Planning Commission meeting on Tuesday and it was reported 14 lots have been plotted at Washington Park Blvd. and Krueger Hill which will be the start of cottage homes being built up there.

Mr. Donoghue asked the Board to remember at the last meeting he reported about the NIC litigation that is being handled in court by Attorney Elizabeth Flynn of Braje and Nelson. As Mr. Donoghue advised, a hearing was scheduled for August 27, 2007 and Attorney Flynn attended that hearing in the LaPorte Circuit Court and no one appeared on behalf of the Plaintiff and the Judge indicated that the Plaintiff's case would be dismissed. Mr. Donoghue reported that leaves a counter claim which has been expressed on behalf of the Park Department to consider. Mr. Donoghue stated at this point we feel it is important to evaluate that counter claim and the decision that this Board will make possibly at your next meeting or certainly in September. Mr. Donoghue stated moving forward and prosecuting the counter claim and the thing you will want to consider are the costs of going forward with a trial, and in using the word trial in this case because of the expectation that no one will show up on the other side of the law suit, it is a trial

only in the sense of presenting sufficient evidence to support the elements of our counter claim and that has an expense feature to it. Mr. Donoghue will advise the Board of that when they make their decision; he will tell the Board what the estimate in terms of that will be. Mr. Donoghue stated the amount will not be large, and by large he means costs above \$10,000; this will be moderate meaning something under \$5,000 and probably under \$3,000. That is something Mr. Donoghue will provide to the Board. Mr. Donoghue stated the next consideration is the value of the equipment the Plaintiff left behind in the Park Department's possession. Mrs. Eason has taken a look at that and actually has an inventory of it and while we still need to tweak this it looks like that *may* have a value of upwards of \$8,000. Mr. Donoghue stated because of the posture of the litigation in which the Plaintiff filed a lawsuit first and they have answered the counter claim that we have made in which they claim that they don't owe us any money and so forth, it will be necessary for that small trial to take place so that a Judgment can be entered into and that Judgment can then be executed against this equipment that is in your possession. Mr. Donoghue stated they say that possession in nine tenths of the law but we have to go and get that last tenth which is a Court Order the Judge would sign saying that the Judgment that we would get against this company can be partially paid out of that equipment. Mr. Donoghue stated when we get the Judge's signature on that then you can do whatever you want to with that equipment. Mr. Donoghue stated in speaking with Mr. Garbacik and Mrs. Eason there could be some use for that equipment, but, as Mr. Donoghue stated we will have to give you the information you need to make that decision and you don't have to decide, of course, tonight. Mr. Donoghue stated there will probably be an inclination to go forward with this because he believes the figures are going to be where you will come out ahead. Mr. Donoghue stated we do need to consider the chances of obtaining the balance of the money that we claim is owed, in other words is there any financial ability on the part of this company, and that we don't know. We would like to do a little investigation there as far as some of the financial situations that this company may or may not have. We don't know that now but we think we can find out a good bit about that. Mr. Donoghue stated these are all things we want to discuss with you in determining whether or not we should move forward and we may want to do an Executive Session because this is litigation and we will consider that.

Mr. Donoghue reported relating to the next project in the zoo which is the zoo maintenance building and as you know Haas & Associates is the Engineer and they of course have prepared the specifications you have determined and with your approval and have advertised that bids will be accepted on September 18, 2007. Mr. Donoghue stated the bids could be available for the Board to consider with a recommendation at the Board's second meeting in September, 2007. The size of this project requires a Common Construction Wage be determined because this project will be in excess of \$150,000. That hearing was held yesterday in LaPorte and the Board was represented by Darrell Garbacik and Joe Doyle and a determination was made as to the Common Construction Wage on that project. Mr. Donoghue stated this is required and routine on a project over \$150,000. Mr. Donoghue stated that because of that threshold amount this will require a Local Hiring Agreement which we have discussed and which the Board is familiar with.

Mr. Milcarek asked about the value of the camera equipment; he thought we sued them because it didn't work.

Mr. Donoghue stated the system didn't work and there is a big difference between it not being any good and not working and it didn't work for the purposes that you wanted it to work for but that doesn't mean it isn't any good. Mr. Donoghue stated the equipment is right here and it is practically new right out of the box so there are some things you should consider doing with it.

Mr. Milcarek asked if this was an application matter.

Mr. Garbacik stated that is correct and some of the equipment is usable such as the signs and certainly we can use those with the workable system that we have now. There is some computer equipment that may or may not have a use to us for some other purpose other than a security system at this point. We will have to evaluate the cameras and if they are in good working order they potentially could be used with the system we have that is working and where the application part has been accomplished and is working successfully.

Mr. Donoghue stated next week he will be meeting with Baker and Daniels and as we have reported to the Board it is our schedule to clear up the remaining property owners with leases and determining their specific situations by Thanksgiving and we are also giving priority in September to an inspection of the properties themselves by Mr. Garbacik, Mr. Westphal and Mr. Donoghue and there are some things that will be recommended to the Board in terms of the future management of those properties on the Esplanade.

Mr. Garbacik reported he will follow up with Mayor Oberlie on the Amphitheater Analysis Project that is on the agenda to see if he has determined a direction for that project.

- **On a motion** made by Mr. Latchford, seconded by Mr. Milcarek and voted unanimously by the Board, the Board agreed to table the Amphitheater Analysis Project.

Mr. Donoghue reported there are some technical changes we made to the 2008 Salary Order, Resolution No. 636. Mr. Donoghue stated the Statute is clear that the Park Board has the responsibility to determine the compensation of the employees of the Park Department and the wording that had been used for so long on resolutions of this kind, which is basically the request to the City Council to approve the Mayor's Salary Order, had been based on the older law and the older terminology. We have looked at this and found it does need to be updated so we made a couple of changes that really describe what the legal duties are and we have substituted that it is the Park Board's responsibility. Under the Statute the Mayor does make the presentation as part of the package to the City Council for approval, they are the fiscal body, so they need to review it and approve it but it is not the Mayor's responsibility and it really never has been. It has always been the responsibility of the Park Board and we changed the terminology to reflect that. Mr. Donoghue stated it is not a major change it is a minor change but the wording is different so we need to ask the Board to ratify the revision to Resolution No. 636.

Mr. Garbacik added no numbers were changed on Resolution No. 636, just verbiage.

- ❑ **On a motion** made by Mr. Latchford, seconded by Mr. Milcarek and voted unanimously by the Board, the Board ratified the revisions to the attached Resolution 636 titled “A Resolution Setting Salaries for Park Department Employees of the City of Michigan City, Indiana for the Calendar Year 2008.

Mr. Donoghue reported on the Water Department Intake Project – Phase II - Temporary Easement for Construction, and as he reported at the last meeting the Mayor had some questions about some of the technical terms of the temporary easement. Mr. Donoghue had met with the Mayor and he sees some areas that will need revision, they do not harm the Park Department at all, they are in the areas of the geographic construction area itself so that area will not be expanded without written request to the Park Board, and also the Water Department will do everything it can to see that the contractor does the project on time. Mr. Donoghue will make those revisions and have that to the Board at the next meeting. It still needs to be accomplished because although the project is halfway through and has been very, very good up to this point in terms of staying within the boundaries of the construction area and also in meeting their schedule in terms of the parts of the project itself, we still need to have this written agreement in order to make sure we have everything clear as opposed to what we have done in the past which has been basically a gentleman’s agreement and not specified in writing.

- ❑ **On a motion** made by Mr. Latchford, seconded by Mr. Freese and voted unanimously by the Board, the Board agreed to table the Water Department Intake Project - Phase II- Temporary Easement for Construction.

Mr. Donoghue reported before the Board tonight is a report from the Engineering Firm of A.S. Altum & Associates which is the Architect and Engineer for the North Golf Course Irrigation Project and in that report the Architect recommends the final payment be made in the amount of \$14,347. An affidavit and waiver of lien rights has been filed by the contractor in proper legal form so it would be appropriate for the Board to approve the final application for payment as has been presented to you and also at the same time to authorize the release of the retainage escrow funds and authorize Mr. Garbacik to sign that release and present it to the bank.

Mr. Milcarek asked Mr. Garbacik if he is completely satisfied with the project.

Mr. Garbacik answered that Mr. Durham is which satisfies him.

- ❑ **On a motion** made by Mr. Milcarek, seconded by Mr. Freese and voted unanimously by the Board, the Board authorized final payment and release of retainage escrow funds for the North Golf Course Irrigation Project to Midwest Irrigation, LLC.

Mr. Garbacik read the following minor transfers into the minutes:

ZOO DECREASE

1301-0804-01-412.021	Sick Pay	\$2,500.00
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ZOO INCREASE

1301-0804-01-413.003	Unemployment	\$2,500.00
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RE: Budget adjustment

ZOO DECREASE

1301-0804-03-436.005	Ground Repair & Mtce	\$2,000.00
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ZOO INCREASE

1301/0804-03-439.011	Contractual Services	\$2,000.00
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Re: Budget adjustment

RECREATION DECREASE

1301-0803-01-411.016	Overtime	\$2,248.00
1301-083-01-412.021	Sick Pay	\$ 831.00

RECREATION INCREASE

1301-0803-01-411.014	Part Time Salaries	\$3,079.00
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RE: Budget adjustment

Mr. Garbacik reported the Board received in their packets a request from the Minority Health Coalition of LaPorte County in a letter from Albertine Allen basically to utilize the lower Park Office to help facilitate a 5K walk and breast cancer screening program. This event would take place on October 13, 2007 from 7:00 a.m. until noon. They are requesting a waiver of fees to use the lower level of the Park Office and Mr. Garbacik certainly recommends approval of the request as submitted.

- ❑ **On a motion** made by Mr. Freese, seconded by Milcarek and voted unanimously by the Board, the Board approved the attached request submitted by Albertine Allen of the Minority Health Coalition of LaPorte County to host a 5K walk and breast screening program on Saturday, October 13, 2007 and agreed to waive the fees for the use of the lower Park Office.

Mr. Garbacik read the attached 2007/2008 adult basketball fees into the minutes and recommended their approval.

- ❑ **On a motion** made by Mr. Freese, seconded by Mr. Latchford and voted unanimously by the Board, the Board approved the attached 2007/2008 adult basketball fees.

Mr. Garbacik read the attached 2007/2008 adult volleyball fees into the minutes and recommended their approval.

- ❑ **On a motion** made by Mr. Freese, seconded by Mr. Latchford and voted unanimously by the Board, the Board approved the attached adult volleyball fees.

Mr. Garbacik reported the Board received a travel request in their packets for Mr. Garbacik and Mr. Kienitz to attend the 2007 NSA/BPA National Convention. Mr. Garbacik reported this is an annual request and this year is the 25th anniversary of the organization and the convention will take place in Kentucky in proximity to the National Headquarters and the NSA/BPA Hall of Fame. Mr. Garbacik stated his request will not require any airfare this year and the estimated cost for both employees is \$880.00. Mr. Garbacik included a brief agenda so the Board can see some of the things that will occur.

Mr. Freese stated the cost is pretty cheap and having been in the sports profession for 32 years he knows these conventions are great for a lot of reasons. Mr. Freese feels this is beneficial not only for the information that you gather but for the contacts that you make; you meet a lot of great people who have common interests and you can learn a lot at the meetings as well as the round table discussions.

- **On a motion** made by Mr. Freese, seconded by Mr. Latchford and voted unanimously by the Board, the Board approved the attached travel request for Mr. Garbacik and Mr. Kienitz to attend the 2007 NSA/BPA National Convention in Kentucky.

Mr. Garbacik introduced the attached Resolution No. 638 transferring funds in Recreation and asked for the Board's approval.

- **On a motion** made by Mr. Latchford, seconded by Mr. Milcarek and voted unanimously by the Board, the Board approved the attached Resolution No. 638.

Mr. Garbacik introduced the attached Resolution No. 639 transferring funds in the Park Concession Fund and specifically pertaining to concession activity at the zoo and asked for the Board's approval.

- **On a motion** made by Mr. Latchford, seconded by Mr. Milcarek and voted unanimously by the Board, the Board approved the attached Resolution No. 639.
- **On a motion** made by Mr. Milcarek, seconded by Mr. Latchford 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 \$83,362.56.
- **On a motion** made by Mr. Milcarek, seconded by Mr. Latchford and voted unanimously by the Board, the Board approved payment out of the Zoo Endowment Fund in the amount of \$1,853.29.

Mr. Milcarek reported invoices totaling \$26,199.30 were paid through the 08/20/07 Board of Works meeting.

- **On a motion** made by Mr. Milcarek, seconded by Mr. Latchford and voted unanimously by the Board, the Board approved Payroll #17, 07/29/07 through 08/11/07, in the amount of \$83,767.40.

Mr. Milcarek reported charges totaling \$854.44 were made to the Park Department credit card.

Mr. Freese reported that the Board received a letter from a Mrs. Jill McNeil and it was a very nice letter complimenting our City Kids Day Camp program. Mrs. McNeil lives in Long Beach during the summer but she is from Hinsdale, Illinois. It is a well written letter and she talks about how unruly her children are and how she had trouble controlling them at the library and she noticed there was a group of children that came in and they were well behaved and well supervised and she inquired where they were from and they were with City Kids Day Camp and she was very complimentary about that; not only the young children but also the people that were in charge. Mr. Freese wanted to give credit to our Day Camp staff noting these are the types of things that don't make the paper.

Mr. Milcarek wished everyone involved with Labor Dayz a good weekend.

Mr. Latchford stated the Park Board approves the payroll, sometimes nonchalantly, but it is one of the biggest expenses of this Department and with all of the extra work and everything going on he wanted to note it is obvious that the staff is keeping an eye on the payroll and he thanked them for watching the budget that closely.

Mr. Doyle stated he hopes to see everyone out at Labor Dayz this weekend.

Mr. John Lake introduced himself and reported he has been retained to represent the Michigan City Yacht Club and an LLC to be formed called 12 on the Lake and basically they have entered into, and you may be aware from a letter that Mr. Lake sent to the Board, but the 12 on the Lake has entered into the members' Purchase Agreement with the Michigan City Yacht Club. As you know the Park Department owns land and the Yacht Club sits on four corners and around that is Port Authority land and Park Department land and they would like to try to negotiate a lease of some of that land to allow the use of that property to continue. Mr. Lake stated he is at the meeting tonight to open the negotiations with the Board so maybe he can come back next month to gain approval of some sort of lease.

Mr. McKee suggested Mr. Lake meet with Mr. Garbacik and himself prior to the next meeting to discuss that.

- **On a motion** made by Mr. Latchford, supported by all members of the Board, there being no further business, the meeting was adjourned at 5:51 p.m.

Darrell L. Garbacik, Superintendent
Michigan City Park Board

Tom Milcarek, Secretary
Michigan City Park Board

Attachments to the August 30, 2007 Park Board meeting:

1. Amendment to Resolution No. 636 2008 Salary Order
2. Request Submitted by Albertine Allen of the Minority Health Coalition of LaPorte County to Host a 5K Walk and Breast Cancer Screening on October 13, 2007
3. 2007/2008 Adult Basketball Fees
4. 2007/2008 Adult Volleyball Fees
5. Travel Request for Mr. Garbacik and Mr. Kienitz to Attend the 2007 NSA/BPA National Convention
6. Resolution No. 638
7. Resolution No. 639

Minutes prepared by Shannon Eason