

The Michigan City Park and Recreation Board met in regular session on Thursday, September 20, 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; Juanita Kreidler; Barb Malewicki; Albertine Allen, Black Expo; Edward Arnold; and Andre Steele, ALCO TV.

- **On a motion** made by Mr. Milcarek, seconded by Mr. Latchford, and voted for by Mr. McKee unanimously by the Board, the Board approved the minutes of the September 6, 2007 Park Board meeting. Mr. Freese abstained from the vote because he was not present at that meeting.

Mr. Garbacik reported as of today we have removed 9 large trees and 1 small tree from Gardena Park as a result of the storm on August 23, 2007 storm. We also removed 7 major “hangers”, where a limb breaks and is hanging on another one. Nine other large limbs were removed; one of those was removed by A1 Loggins because our equipment wouldn’t reach it and they brought in their 85’ bucket truck and took care of that. Mr. Garbacik reported we also trimmed and cleaned up everything else. Thirteen stumps were ground and filled. Along the parking lot along Jackson Street limbs and branches that were hanging over the parking lot were trimmed up. Mr. Garbacik stated the tree canopy at Gardena Park is looking pretty good now. We have also had locating done along the perimeter fence area where we intend to begin removing the perimeter fence.

Mr. Garbacik announced this past Monday our Office Manager/ Budget Manager Laura New submitted her two week resignation notice. Ms. New will be moving on to the LaPorte County Park System taking on a position that is involved in planning activities and events and some of the things that she really enjoys doing. Ms. New has been with the Park Department for 12 years. Ms. New will be missed but at the same time we certainly wish her the best and she will serve well for the LaPorte County Parks.

Mr. Garbacik reported dates of interest coming up. Mr. Garbacik reminded the Board on October 6, 2007 at 10:30 a.m. the fountain at Millennium Plaza will be dedicated to Mr. Roger J. McKee. There will be guest speakers and the like and will be a nice ceremony. Plunge for a Cure will also be held on October 6, 2007. Oktoberfest will be held on October 6 & 7, 2007. Mr. Garbacik stated you can come down to Washington Park in the morning and stay all day and all night and have plenty to do. Mr. Garbacik announced an event will take place at the Senior Center on October 20, 2007. This is a fundraising event named "Come Together for Autism Awareness." Some special guests have been lined up to join that evening on the State political scene including Mayor Charles Oberlie, Indiana House Representative Scott Pelath, Indiana House Representative Tom Dermody, Indiana State Senator Jim Arnold, and a representative of U.S. Congressman Joe Donnelly will be in attendance as well. Tickets are available by contacting Tara Miller at the Senior Center. Your tickets will not only contribute to the fundraising effort it will entitle you to enjoy a very nice dinner provided by Great Lakes Catering and a cash bar run by Shoreline Brewery that will include a tasting station to try their local micro brews. The Point n' Fingers Band has graciously donated their entertainment services for an evening of music and dancing. The number one purpose is the education and awareness of autism for all that attend and obviously families affected by autism will be in attendance and it will give them a chance to meet with and socialize with some of these representatives down State and we look at this as an opportunity for these families that are affected as a little bit of a getaway to have a nice evening and the third reason is to raise some funds for the local Autism Board here.

Mr. Garbacik reported vandalism at Pullman Park consisted of two pad locks being broken off the ramp doors; the incident was not caught on camera because of the angle of the camera.

Mr. Garbacik announced this past Tuesday we received bids for the Zoo Maintenance Building Project. Haas & Associates are our Engineering Consultants. They have the bids and are analyzing those and we hope to come to the Board at your meeting of October 4, 2007 with more information and possibly a recommendation.

Mr. McKee thanked Ms. New for her years of service and on behalf of himself, the Park Board and the Park Department we wish her well at the LaPorte County Park Department; it will be good to have another friend over there.

Mr. McKee asked if there has been any movement on the Patriot Park mitigation and fishing area.

Mr. Garbacik answered not to his knowledge; nothing that is being asked of the Park Board. The ball is in their court as far as assembling information and design. Mr. Garbacik stated that at some point in the future the specific design and layout will come before the Park Board for its' consideration and approval. What we have sent to them at this point is an approval of the location.

Mr. McKee asked if the Autism Awareness group is the same group that runs the Angels in the Outfield program.

Mr. Garbacik responded it is not the same group.

Mr. McKee stated he has heard several concerns over the summer regarding the Lot#1 restrooms; it seems like there is a steady amount of vandalism there and our maintenance crew can't keep up with it. Mr. McKee stated that he hears a complaint and then hears that the problem has been fixed and then it is back to being broken the next weekend. Mr. McKee stated that he doesn't have an answer but feels this is something that we need to look into for next summer; a way to alleviate this. Mr. McKee stated that you can't put cameras in the bathroom and he doesn't know what to do, but we can't keep going through the summer with everything being broken.

Mr. Garbacik stated Lot #1, Lot #2 and Fedder's Alley restrooms are all subject to that activity rather consistently.

Mr. McKee stated the people that don't cause the problems view it as us not doing our job and when he speaks to maintenance personnel or Mr. Garbacik, he is told that we are doing our job but cannot keep up with the pace of how quickly things get damaged.

Mr. Donoghue stated the Park Board had asked for information regarding the Northern Indiana Communication lawsuit. The Board will remember at this point in the litigation the Park Department has been victorious; we have won the issue over the lawsuit that was filed against us by Northern Indiana Communications. The Board will recall that we have file a counter claim against Northern Indiana Communications and the amount of that counter claim is \$21,500. Mr. Donoghue reported to this point the attorney fees in defending that lawsuit have been approximately \$4,900. To take this matter further to trial it is estimated to cost approximately \$2,000, if the Board decides to do that. Mr. Donoghue reported that the point of balancing the issues here to make your judgment really will require more information by the way of a financial report as to the financial responsibility of this company and it is Mr. Donoghue's recommendation that before the Board would decide to spend an additional \$2,000 that we ought to find out what their financial position is and that is done by a financial investigation and a report and generally this would run around \$500, maybe a little more depending on what they would find. That would give the Board an idea, for instance, if this company is out of business or is no longer working or if they have the financial ability needed for us to pursue the case. Mr. Donoghue stated that we have won the initial part of the lawsuit which was a claim by them against us. Mr. Donoghue recommended that we look into the financial aspects. Mr. Donoghue will prepare a memo to the Board so that you can look at the figures and so forth for this litigation question and then make up your minds.

Mr. Milcarek asked if the lawyers are done working. How did we get into this thing to begin with, didn't we hire somebody to represent us.

Mr. Donoghue responded we won.

Mr. Milcarek asked what we won; we won the ability to pay another \$4,000.

Mr. Donoghue responded that we had a lawsuit against us for \$18,000.

Mr. Milcarek stated maybe we should have lost.

Mr. Donoghue answered then write your check; if you lose it's going to cost you \$18,000. You have the money, that is the point. This outfit may or may not, but before you spend any more money it is a good idea to find out whether you are throwing good money away.

Mr. Milcarek responded that he realizes that.

Mr. Donoghue stated that is his recommendation.

Mr. Freese asked Mrs. Eason why the value of the equipment is substantially lower than what we paid for it in 2004.

Mrs. Eason stated this type of technology depreciates quickly.

Mr. McKee asked if the original lease was with NIC Technologies or if there was a provision in the lease making the owner responsible.

Mr. Donoghue stated the contract of purchase was with NIC Technologies, not the owner.

Mr. McKee asked Mr. Garbacik to search on-line to see if this company is still around, at a minimum, before we spend any money to look into it further. If we find that indeed they are in business and doing just fine, then there is our answer.

Mr. Latchford suggested checking with the Secretary of State to see if the business is registered.

Mr. McKee stated if we can find an address we can pay them a visit and see what is happening.

Mr. Donoghue stated regarding the Johnson Death case, which involves the victim who drowned in Trail Creek as a result of swinging from a lamp post, we have received a report from the attorney from Traveler's Insurance, and Traveler's Insurance is the company that represents you and covers you for this liability, and this lawsuit is against the Park and Recreation Department and against the City of Michigan City and against the Michigan City Port Authority. The Michigan City Port Authority has a separate insurance company, a separate defense and separate lawyers and that makes it important to determine where the jurisdiction for this property, where the event occurred, resided on July 18, 2004; that is the date of the death. Mr. Donoghue stated we have a copy of the Memorandum of Understanding which the Board entered on December 20, 2004, six months after the event. Mr. Donoghue stated that Memorandum of Understanding between the Board of Works and Safety, the Port Authority and the Parks and Recreation Department transferred the jurisdiction to the Parks and Recreation Department after the event, and that is important, after July 18, 2004. Mr. Donoghue reported the attorney is conducting her discovery and has recently taken deposition of two occurrence witnesses and is asking for the Park Department to provide some documentation regarding the original designation of authority at the

time Millennium Park was completed and that was in 2000/2001. Mr. Donoghue has contacted Gale Neulieb at the City Clerk's Office and she can find that information and Mr. Donoghue has also been working with City Attorney Jennifer Evans to provide that. The idea here is with the documentation the attorney's believe that we will be dismissed out of that lawsuit. It is still a problem, but it will not be a Park Department problem.

Mr. Garbacik stated where the tragedy specifically occurred was near the seawall or where the lights are versus all of Millennium Plaza. In reference to the Memorandum of Understanding, it further defines that the jurisdiction from the seawall to the water remains under the jurisdiction of the Port Authority.

Mr. Donoghue stated Mr. Garbacik is correct and that is further protection for the Park Department.

Mr. Donoghue reported the encroachment meeting with Baker & Daniels was held last Friday, September 14, 2007. The meeting was very productive. We have organized properties into categories and we are working on a spreadsheet that Mr. Donoghue will mail to the Board next week. Mr. Donoghue and Ms. New have collated the various leases and have calculated the amounts and that will be included in the spreadsheet so that you see each one of the items that have been focused on. The status of all of these properties will be shown. Mr. Donoghue stated they have also calculated the Consumer Price Index percentage increase that takes effect for the 2007/2008 term and that amount was 15.8% based on the previous five year period. As a quick example, if a property owner was paying \$100 annual rent up to this point, the rent will go forward for the next five years at \$115.80. Mr. Donoghue thanked Mr. Latchford for his help on obtaining the CPI information. Mr. Donoghue stated we are on track to complete the entire project by the end of this year and we still believe there will be no litigation.

Mr. Donoghue reported a claim request for the Primate House Project is before the Board. It is claim request no. 1 and has been certified by the Architect and amounts to approximately \$6,000. The work up to this point has been verified and it will be passed on to the Board of Works for payment if the Park Board approves it tonight, meaning that it is your building and that the work has been done to this point and you are agreeing to have the Board of Works pay the bill.

- **On a motion** made by Mr. Freese, seconded by Mr. Milcarek and voted unanimously by the Board, the Board agreed to forward Claim Request No. 1 from Kaser-Spraker Construction, Inc., for the Primate House Project, in the amount of \$5,766.75 to the Board of Works for payment.

Mr. Garbacik asked the Park Board to remove the item from the agenda pertaining to the Water Department Intake Project Temporary Easement.

Mr. Donoghue stated there is no real need for the temporary easement but we will be looking at the permanent easement that we discussed here at the time the work is completed. There will be a change in the legal descriptions of those easement areas when the pipes are in because they had

to expand those areas somewhat. Mr. Donoghue agreed the item should be taken off of the agenda and replaced with the parking lot improvements that we are discussing.

Mr. Garbacik reported at the Board's last meeting he asked for and received approval to make the improvements to Lot #1 pending confirmation of the funding. Mr. Garbacik reported the Mayor's Office and Controller's Office have confirmed the funding is available.

Mr. Donoghue reported a letter will be sent to the Park Board and the Water Department Board in which the Mayor will state that the funds are available and have been specifically committed for this change order to the Water Department Project and for the benefit of the Park Department.

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

PARK MAINTENANCE DECREASE

1301-0805-02-422.022	Oil	\$ 500.00
1301-0805-02-422.031	Household	\$1,500.00
1301-0805-02-422.037	Other Clothing	\$ 500.00
1301-0805-03-435.004	Water	\$1,700.00

PARK MAINTENANCE INCREASE

1301-0805-02-422-025	Diesel	\$ 500.00
1301-0805-02-423.001	Building Material	\$2,000.00
1301-0805-03-432.004	Telephone	\$ 500.00
1301-0805-03-439.011	Contractual Svc	\$1,200.00

RE: Budget Adjustment

ZOO DECREASE

1301-0804-03-435.004	Water	\$4,000.00
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ZOO INCREASE

1301-0804-03-435.001	Gas & Electric	\$4,000.00
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RE: Budget Adjustment

Mr. Garbacik presented the attached Resolution numbers 641, 642 and 643 for the Board's approval.

- **On a motion** made by Mr. Freese, seconded by Mr. Latchford and voted unanimously by the Board, the Board approved the attached Resolutions numbers 641, 642 and 643.

Mr. Garbacik reported the Board received a request to host a new event at Memorial Hall; it is basically a fundraiser for Indiana Black Expo, Inc. and they are requesting the one time per year

50% not for profit discount. Mr. Garbacik introduced Ms. Albertine Allen from the Indiana Black Expo, Inc.

Ms. Allen reported she serves as Treasurer for the Michigan City Black Expo Chapter. This is a spin off Chapter of the Indiana Black Expo from Indianapolis. Their main goals are to raise funds for youth scholarships, deal with health issues and deal with administrative costs. Ms. Allen reported the Indiana Black Expo is part of the Minority Health Coalition in that they collaborate together to address health issues for minorities. Basically the Black Expo here would be doing activities for youth.

- ❑ **On a motion** made by Mr. Latchford, seconded by Mr. Freese and voted unanimously by the Board, the Board approved the attached request from the Indiana Black Expo to host a fundraising event at Memorial Hall on Saturday, October 20, 2007.

Mr. Ed Arnold addressed the Board. Mr. Arnold is representing 12 on the Lake Restaurant proposed on the site of the Michigan City Yacht Club. Mr. Arnold stated as the Board knows if this is successful we will be neighbors. Mr. Arnold asked the Board to enter into some discussions, possibly a committee, to discuss how we will interact with both parking and possibly land lease agreements. Mr. Arnold stated he is trying to move forward as rapidly as possible and it is his hope that perhaps some time next week he could meet with the Park Board to discuss that.

Mr. McKee stated that he and Mr. Garbacik could meet with Mr. Arnold next week. A meeting was scheduled for Monday, September 24, 2007 at 1:00 p.m.

- ❑ **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 \$48,931.02.
- ❑ **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 \$649.88.

Mr. Milcarek reported invoices in the amount of \$3,256.34 were paid through the 09/17/07 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 #19, 08/26/07 through 09/08/07, in the amount of \$66,833.78.

Mr. Latchford stated in light of our Northern Indiana Communication lawsuit if we could add some personal guarantees to strengthen our position with any contractual agreements in the future.

Mr. Donoghue stated if we were to add a statement to that contract that the contract was personally guaranteed by the principles of the company we would be in a different position so that is something we could do. We do that with our leases; we just haven't done that with purchasing equipment but it is a good suggestion and Mr. Donoghue will try to see that we follow it.

Mr. Donoghue stated he has enjoyed working with Ms. New and he wishes her all the best. Ms. New has been a very pleasant Office Manager to work with and he hopes she does well in her new job.

Mr. Doyle reminded the public Oktoberfest will be held October 6 & 7, 2007. On Sunday a 20 piece Alps band will be performing.

- **On a motion** made by Mr. Latchford, supported by all members of the Board, there being no further business, the meeting was adjourned at 5:44 p.m.

Darrell L. Garbacik, Superintendent
Michigan City Park Board

Tom Milcarek, Secretary
Michigan City Park Board

Attachments to the September 20, 2007 Park Board meeting:

1. Claim Request No. 1 from Kaser-Spraker Construction, Inc.
2. Resolution No. 641 Transferring Maintenance Funds
3. Resolution No. 642 Transferring Recreation Funds
4. Resolution No. 643 Transferring Zoo Funds
5. Request from the Indiana Black Expo to Host a Fundraising Event at Memorial Hall on Saturday, October 20, 2007

Minutes prepared by Shannon Eason