



City of Madison

City of Madison
Madison, WI 53703
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Meeting Minutes - Approved BOARD OF PARK COMMISSIONERS

Wednesday, July 14, 2010

6:30 PM 1625 Northport Dr. # (Warner Park Community Recreation Center)

I. CALL TO ORDER / ROLL CALL

The regular meeting of the Madison Board of Park Commissioners was held on Wednesday, July 14, 2010 at Warner Park Community Recreation Center, 1625 Northport Avenue. President Barker called the meeting to order at 6:38 p.m. A quorum was present and the meeting was properly noticed.

Present: 6 -

Madelyn D. Leopold; Paul E. Skidmore; William W. Barker; David L. Wallner; Betty Chewning and Emanuel Scarbrough

Excused: 1 -

Joseph R. Clausius

Parks staff present: Steve Doniger, Eric Knepp, Kay Rutledge, LaVonne LaFave.

City staff present: Brian Grady, Michael Waidelich

Alders Present: Marsha Rummel, Michael Verveer

II. PARKS EMPLOYEE(S) OF THE MONTH

Steve Doniger, Community Services Manager, announced that the July employee of the month is Dan Jauch of Warner Park Community Recreation Center. A new procedure has been instituted that the Employee of the Month is recognized in front of his/her fellow staff. Because Dan works during the Park Commission meetings he thanked everyone for the honor and stated it is a pleasure working at WPCRC.

III. PUBLIC COMMENTS

Registered speaker:

NAME	Issue
Trish O'Kane	Bluebird Houses in Warner Park

The speaker provided information regarding the bluebird houses in Warner Park. She noted that they were not damaged prior to Rhythm & Booms, but on the day following the event when she checked on the houses, several of them were damaged and wanted that information noted on the public record.

IV. APPROVAL OF MINUTES

A motion was made by Wallner/Chewning to approve the Minutes of the Regular Meeting of June 9, 2010 of the Park Commission. MOTION CARRIED UNANIMOUSLY.

V. REPORTS

A. Olbrich Botanical Society Minutes of May 18, 2010 Meeting

A motion was made by Scarbrough/Chewning to accept the Minutes of the May 18, 2010 meeting of the Olbrich Botanical Society. MOTION CARRIED UNANIMOUSLY.

B. President of the Park Commission

President Barker introduced new Park Commissioner, Madelyn Leopold. He noted he has known her for many years and believes she is well qualified. Ms. Leopold noted she appreciates all of the input she has been getting regarding tonight's topics, which are all very important, and she looks forward to working with everyone.

He referred the appointment of a member to the Habitat Stewardship Committee/Tree Board to a future meeting.

C. Superintendent Of Parks

Written Report of Supervisor's Activities

A motion was made by Skidmore/Wallner to accept the Written Report of Supervisor's Activities. MOTION CARRIED UNANIMOUSLY.

In Superintendent Briski's absence, various managers provided information on Parks items. Eric Knepp, Administrative & Financial Services Manager noted that Madison and its wonderful parks were mentioned in the latest Parenting Magazine. The annual park tour is again scheduled for the August meeting date. The tour will begin at 4:00 p.m. at the Goodman Pool and end there with a light supper and conversation. Invitations were distributed to each Commissioner.

Steve Doniger, Community Services Manager, reported that both the Elver Fireworks and Rhythm & Booms were successful events. Woodman's paid for the Elver Fireworks and Clear Channel partnered with Parks in advertising the event. Volunteers and staff did a fantastic job and Woodman's has indicated they will pay for the fireworks in the future. R&B had a spectacular show with great entertainment and staff looks forward to it again next year.

Commissioners requested they be provided with the Street Tree Ordinance and information on the types of approved species being planted.

VI. NEW BUSINESS

- A. [18538](#) Amending the Mid-Town Neighborhood Development Plan, a supplement to the City of Madison Comprehensive Plan, to provide more detailed recommendations for the western part of the planning area and to include additional lands west of Meadow Road, and authorizing the City's applications to amend the Central Urban Service Area as required to implement the recommendations in the Plan.

This Resolution was Return to Lead with the Recommendation for Approval to the PLAN COMMISSION, due back on 7/26/2010

Parks and Planning staff have been working on this Development Plan that contained only general land use recommendations when it was originally presented. Planning staff were present to provide additional details on the plan. The Town of Middleton and City of Madison have a Cooperative Agreement regarding boundaries whereby the planning area will become part of the city in 2042 unless individuals petition for annexation earlier.

Planning staff have met with the larger property owners and also worked with other city staff for input into the plan. Public meetings have been held and there will be a public hearing at the Plan Commission level. Currently there are large lots, horse farms and some open water in this largely undeveloped area. Some of the properties are in the Town of Middleton and some have been annexed to the city. An explanation of the watershed and how the water drains through the area was given. There are four parks of varying sizes in this portion of the plan, ranging in size from 2-acres to Hill Creek Park which is more than 5 acres. The park area is in proportion to the developable area. Planning staff attempt to get the parkland through dedication, rather than having to purchase it. An explanation was given of how parks are located within a plan. There was lots of storm water planning to ensure that the same water conditions would remain and it would be contained within the boundaries of this very sensitive watershed. Hill Creek Park will be approximately 16 acres total and will include two larger soccer/play fields, the existing play equipment, and the addition of tennis courts which will be discussed in future master planning for the park. Bike paths will include both on and off street locations. The off street portion will take advantage of the drainage way in a north-south direction along the sanitary sewer route and also use a secondary drainage way toward Olson Elementary School.

A brief discussion occurred regarding the types of density. Plans include more density around the park areas. It was also noted that it is difficult to get commercial nodes in these outlying areas and Planning does not anticipate mixed use areas because of that fact.

President Barker asked that comments be restricted to parks issues.

A motion was made by Skidmore/Scarborough to approve Resolution ID#18538 amending the Mid-Town Neighborhood Development Plan, a supplement to the City of Madison Comprehensive Plan, to provide more detailed

recommendations for the western part of the planning area and to include additional lands west of Meadow Road, and authorizing the City's applications to amend the Central Urban Services Area as required to implement the recommendations in the Plan. MOTION CARRIED UNANIMOUSLY.

B. Statue of Liberty Project Update

Registered speakers in support
Sue Peck
Barb Arnold

This group has been working with Karin Wolf the City Arts Coordinator on fundraising for restoration of the Statue of Liberty in Warner Park. The work will be done in three phases. The first is to raise \$21,000 to restore the statue, the second phase is to raise \$15,000 for an endowment for future care, and the third phase is for landscaping around the statue with a path leading to it, but they have no firm landscape plan at this point. The group has applied for grants with Dane County Cultural Affairs, Madison Community Foundation and the Rotary Club. Both the Boy Scout organization and the Rotary are offering their support for this project. A Boy Scout is also interested in taking on the landscaping portion for his Eagle Scout badge. Another proposal is to sell memorial bricks to raise money. They are interested in replanting some of the trees around the statue because the current species are ash. They would also like to change the orientation of the statue so it faces toward the East coast. The group wants to work in conjunction with any Warner Park master planning process.

Wallner congratulated them on their work.

C. [19059](#)

SUBSTITUTE - To authorize the Mayor and City Clerk to enter into a Use Agreement between the City of Madison, Downtown Madison, Inc. and Madison's Central Business Improvement District No. 1 to allow non-exclusive use of the Elizabeth Link Peace Park Visitor Center building for an initial one and one-half year period with the possibility of additional one year renewals. (AD 4)

Knepp provided a substitute Resolution that adds DMI as a party to the Use Agreement for the Visitor Center building.

A motion was made by Wallner/Skidmore to take Resolution ID#19059 separate from the Code of Conduct. MOTION CARRIED UNANIMOUSLY.

A motion was made by Wallner/Scarborough to approve Substitute Resolution ID#190599 to authorize the Mayor and City Clerk to enter into a Use Agreement between the City of Madison, Downtown Madison, Inc. and Madison's Central Business Improvement District No. 1 to allow non-exclusive use of the Elizabeth Link Peace Park Visitor Center building for an initial one and one-half year period with the possibility of additional one year renewals. CARRIED UNANIMOUSLY. This Resolution was RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER

D. [19147](#)

Elizabeth Link Peace Park Visitor Center Code of Conduct Policy

Also distributed was the proposed Code of Conduct which was patterned after the policy used by the Library and Senior Center and has been reviewed by the City Attorney and Police. Also distributed, was a letter from Central District Captain Schauf supporting the proposed policy that focuses on behavior and providing rationale for it. The intent is to create a safe and welcoming environment with equitable access in to the building and a park that is usable and free of poor behavior. The Code of Conduct will only cover the Visitor Center not Elizabeth Link Peace Park.

Registered speakers

Mary Carbine, BID in support
Mitch Freund, BID Ambassador in support
Diana Burke opposes
Jeannette Rueckers in support
Sandi Torkildson in support
Natasha Salinas – not speaking in support
Hawk Schenkel in support
Brenda Konkel opposes
Colleen Burke opposes
Ald. Mike Verveer in support
Laure Quinart – not speaking

Park Commissioners suggested that the Ambassador program consider bi-lingual volunteers to fulfill its full potential and serve visitors who come downtown each year. One speaker spoke of the need for public restrooms on State Street.

The Code of Conduct will be posted in some manner and provided to BID Ambassadors. The object is to try to educate users first before having to enforce the Code. Ambassadors will need to contact city staff for enforcement of it. Police will work to get the message out of what is or is not acceptable behavior. Commissioners noted the biggest danger would be inconsistent application of the code, many of the statements in it are subjective. It was suggested that further thought be given to people of different cultures, both in ways to communicate with them and to understand their behavior. Parks staff is willing to remove any language the Park Commission feels is arbitrary or offensive, such as bodily hygiene. Parks staff make recommendations on the language for the Code of Conduct but it is ultimately the Park Commission who sets the policy to be contained in it.

A comment was made about the amount of material being distributed to Commissioners at the meeting. Commissioners do not have an opportunity to adequately review them and it is not fair to the issues before them when they are received at the last minute.

Alder Verveer expressed appreciation to both DMI and the BID for their collaboration on the Peace Park redesign and the staffing of the Visitor Center. He indicated his support for the Code of Conduct for the Visitor Center and other downtown public facilities that deal with users that cause issues for other users and the staff at those facilities. The draft code presented here is

basically the same Code of Conduct that was adopted by the library for use in all of their facilities. In the last year the Senior Center also adopted a Code that mirrors the Library's policy because of issues that they were having with non-users of the facility coming in and causing problems. The Code spells out clear due process rights and the Park Commission would be involved in hearing any appeals to a person banned from the facility. He then acknowledged Eric Knepp's assistance in drafting the Code and Brenda Konkel for calling attention to some of the language. This Code only needs to be adopted by the Board of Park Commissioners, it does not need Common Council Approval. The City Attorney's office has fully vetted the language. He also recommended that the Code be reviewed on a regular basis, beginning approximately six months following the opening of the Visitor Center to determine whether it needs revision. Parks will not be staffing the Visitor's Center on a daily basis, BID Ambassador volunteers will be performing that role. It is not fair to ask volunteers to deal with issues without any rules in place to address them. The volunteers cannot enforce the Code but will need to call city staff for that function.

It is hoped that the park will be widely used by members of the entire Madison community when it reopens and that the Code of Conduct for the Visitor's Center helps to ensure a safe and welcoming environment.

Commissioners suggested that the Code be referred to the September meeting to allow time to fully review the language and have a good document. It was also noted there should be continuity between being in the building and being in the park with regard to acceptable behavior.

Elizabeth Link Peace Park Visitor Center Code of Conduct Policy. Good points have been brought forward and both Parks staff and Commissioners need time to tweak the Code. During the bus tour last year, several park users spoke with the Commissioners regarding the park and various issues connected with it. Commissioners have also dealt with similar issues at Brittingham and Vilas Parks and made great progress at both of them. The current issue is tough, while the Code deals with behaviors in the Center, the question is how to transfer that to behaviors in the park. Skidmore felt the Code was consistent with city policy and doesn't agree with referral. Some Commissioners felt a much reduced Code covering issues that pertain to just the Visitor Center was preferable since it is a much different facility than the library or Senior Center where people go and spend lengthy periods of time.

A motion was then made by Wallner/Chewning to refer the Elizabeth Link Peace Park Visitor Center code of Conduct Policy to the September meeting. MOTION CARRIED with Skidmore voting no. This was Refer to the BOARD OF PARK COMMISSIONERS, due back on 9/8/2010 Skidmore voted No.

E. [19138](#)

Request from June Meeting by Christopher Berge and Luke Batchelor-Clark regarding Wizzard Cross at Warner Park on November 7, 2010.

Doniger stated following the June meeting, staff met with the organizers and alder regarding their proposal. This is a unique event that has been held in other locations in the county. A list of conditions setting forth responsibilities to be met by the organizer was distributed. The course map shows the route

through Warner Park. A comment was received today regarding a possible conflict with the dog park; and organizers will be required to meet with dog park users.

Registered speakers
Luke Batchelor-Clark, in support
Cory Gwin, in support
Dolores Kester, opposed
Paul O'Leary – not speaking, in support

Parks staff have been working with the organizers for several months. The original proposal requested Olin Turville Park and they were told that park was not available for that type of activity. Warner Park was chosen and both maintenance staff and the alder felt the event would work in that location. The organizers have been instructed to keep the course away from any environmental fragile areas and they would be responsible for the replacement of any damaged turf. Following speaker comments, Parks staff added contact with Neighborhood Associations and Dog Park Users to the list of conditions. The organizers noted they need tentative approval this evening or would need to postpone the event until 2011. They have been adjusting the route as concerns are heard.

A motion was made by Wallner/Scarborough to approve the request of Christopher Berge and Luke Batchelor-Clark regarding Wizzard Cross at Warner Park on November 7, 2010 subject to organizer's compliance with all conditions. Skidmore voted no. MOTION CARRIED with Skidmore voting No. Commissioners requested a report following the event.

A 10 minute break was taken. Following the break,
Members present: Bill Barker, Betty Chewning, Madelyn Leopold, Emanuel Scarborough, Ald. Paul Skidmore and David Wallner.
Members excused: Ald. Joe Clausius

- .F. [19139](#) Make-A-Wish Foundation of Wisconsin, requesting Warner Park for a Walk & Run for Wishes on September 25, 2011.

Registered speaker
Cathy Ethington, in support

A motion was made by Skidmore/Scarborough to approve Make-A-Wish Foundation of Wisconsin, requesting Warner Park for a Walk & Run for Wishes on September 25, 2011. MOTION CARRIED UNANIMOUSLY.

- G. [19140](#) Jackie Kravetz of Adventure Fit, Inc. requesting the use of Olin Park for an Urban Assault Ride on Sunday, September 26, 2010.

A concern was raised as to why there is beer at so many events and it was suggested this issue be discussed at a future meeting. A motion was made by Wallner/Chewning to approve Jackie Kravetz of Adventure Fit, Inc. requesting the use of Olin Park for an Urban Assault Ride on Sunday, September 26, 2010. MOTION CARRIED UNANIMOUSLY.

VII. UNFINISHED BUSINESS

A. Fruits and Nuts Update

President Barker reported that representatives of the Park Commission and Community Gardens Committee met with city staff from Real Estate, City Attorney's office, Risk Management and Parks to try to understand the concerns behind the requirement of insurance and fees. President Barker wasn't certain any progress was made as far as getting those things removed from the recommended requirements from city staff. He does understand the city's concern about the liability issue. Even though the recreational immunity statute specifically indemnifies the city against liability from people harvesting the fruits of nature, the city's real concern is that people file lawsuits anyway. It costs money to defend these lawsuits and the city's insurance has a \$300,000 deductible. City staff are really trying to limit the financial liability to the city. Staff from the City Attorney's office could not produce information on how many times folks have sued the city for injuries in city parks in the past year. City staff continue to draw a parallel between this issue and the community gardens where Community Action Coalition holds the lease and has insurance for liability. The city has indicated the \$200 lease fee could be deleted. It is also his understanding that the issue is not really lease vs. Memorandum of Understanding because the MOU spells out what the plan looks like and what expectations are on both sides, the same as a lease does.

The same folks spoke with the Mayor and pointed out that this is bigger than just using city parks because people have presented proposals to different city agencies such as Water Utility, Engineering and Streets. Everyone does understand that the process is stalled and the Mayor would like this brought before the City Council so that a city-wide policy on Edible Landscapes could be developed..

Parks does have a process. Wingra and Marlborough could move forward on an experimental basis as test cases for our process. There will also be a city process that will have alders, and members of Madison Fruits and Nuts and representatives from the Parks Division, the Community Garden Committee and all other city agencies involved.

President Barker suggested that this meeting be used to gather public input from folks about edible landscapes on city land that is not just in parks but on any public space. He continued that in the interests of full disclosure, he, Janet Parker and Jim Winkle founded Madison Fruits and Nuts. Commissioners added that it is a very good project that they would like to see move forward.

Registered Speakers

Janet Parker, Supports Edible Landscaping MOU

Nicole Craig, Supports Edible Landscaping MOU

Trish O'Kane, Supports Edible Landscaping MOU

Jeff Glazer, supports No lease fee & ins.

Sarah Coyle, supports No lease fee & ins.

Percy Mather, Supports Edible Landscaping MOU, supports No Liability ins.

Mary Kirkpatrick – not speaking, Supports Edible Landscaping MOU, supports No Liability ins

Kenneth Kirkpatrick, Supports Edible Landscaping MOU, supports No Lease, no ins.
Mary Eberle, supports No ins
Mike Clark, supports No ins
Christie Ralston, Supports Edible Landscaping MOU, supports No lease, no ins
Twyla Clark, Supports Edible Landscaping
Stephanie Jung – not speaking, supports No lease, no ins
Math Heinzl, Supports Edible Landscaping
Emily Steinwehe – not speaking, supports No liability
Rebekah Wilke – not speaking, Supports Edible Landscaping
Matt Feifarek, Supports Edible Landscaping
James Ream, Supports Edible Landscaping MOU, Opposes \$200 lease req, lia. Ins.
Bryan Fay, supports No lease, no ins
Kate Sandretto, supports No lease no ins
Mary Bacsik, Supports Edible Landscaping
John Bell, Supports Edible Landscaping
Shelly Strom, Supports Edible Landscaping
Jim Winkle, Supports Edible Landscaping MOU, supports No lease, no ins
Judy Skog, supports No lease, no ins
Kate Heiber-Cobb, Supports Edible Landscaping
Natasha Salinas, Supports Edible Landscaping
Hawk Schenkel, Supports Edible Landscaping
Ald. Marsha Rummel Neutral
Helen Kitchel, Supports Edible Landscaping
Kim Neuschel, Supports Edible Landscaping
Greg Allen, Supports Edible Landscaping
Anita Temple – not speaking, Supports Edible Landscaping
Dorothy Krause, Supports Edible Landscaping
Michael Merline – not speaking, Supports Edible Landscaping
Carla Glewen, supports No ins no lease
Carol Gruba. Supports Edible Landscaping MOU, supports No ins
Maria Powell – not speaking, supports No ins no lease
Alice Matrenga – not speaking, supports Concept of plantings
Lori A. Kinnard – not speaking, Supports Edible Landscaping
Mike Vidal – not speaking, Supports Edible Landscaping
Peter Nause, Supports Edible Landscaping MOU, supports No lease no ins

Speakers spoke in favor of the Memorandum of Understanding without a fee and without a requirement for liability insurance. A draft Memorandum of Understanding was presented by Madison Fruits and Nuts that was patterned after the flower garden volunteers in city parks. A long list of other volunteer groups that do not have an insurance requirement was presented as well. They hoped that the Park Commission would approve the MOU and application as a first step in this process.

Chewing compared the Edible Landscaping Memorandum of Understanding (MOU) and comments from the City Attorney's office (ACA Memo) to determine whether they could reconcile the two. It appeared the MOU was patterned after the Flower Garden Application. The MOU does not discuss "duration and term of use, including renewals." Description of the use would be covered in the Planting Plan and Hours of use are covered under city ordinance. The one thing in the ACA Memo that is not in the MOU is "insurance and indemnification".

A motion was made by Chewning/Scarborough that in keeping with the ACA's recommendation that a formal agreement would need to be entered into between the city/Parks and volunteers which would include all of the points which are on the edible landscaping MOU, with the exception of the insurance and indemnification which is replaced by the last point in the MOU, that the Park Commission accept the MOU.

Discussion ensued regarding indemnification and suing the city, i.e. the organized group that signed the MOU would cover the city's deductible insurance costs in defending the lawsuit. They were not certain whether the MOU was adequate in covering that possibility. It was also suggested that indemnification may not be needed because city staff couldn't answer now many times the city had been sued for injuries occurring in parks. It also wasn't clear why this particular activity was singled out for insurance and indemnification out of all the activities occurring in parks. It was also noted that it appeared the city contemplated this would be an organized group. The city attorney's office and risk manager have encouraged Madison Fruits and Nuts to become a 501(c)3 entity. Members of Madison Fruits & Nuts do not want this limited to just city parks but want to plant on all city properties.

Skidmore interjected that he had spoken with the City Attorney, Risk Manager, Mayor's office and others and it's clear that this body does not have the authority to waive liability. It is a city issue not a Park Commission issue and only the city, risk manager and Common Council can waive liability. Additionally, this would set a bad precedent that could allow other groups who do have leases and insurance to request that they receive the same treatment. He supports the program but believes that what is lacking is the process.

Even though a law suit against the city is not likely to succeed, the recreational immunity statute wouldn't prevent an individual from filing against the city. The waiver of liability also wouldn't protect the organization from being sued by someone outside the organization for something that happened on public property, insurance would provide that protection.

This is not the same type of program as the volunteer flower planting or clearing land and doing restoration work under the direct supervision of city staff. It's not the same as harvesting fruits or nuts on existing native or city planted and maintained trees because they are under the purview of the city and citizens can glean from them. This program would also be different than the community garden model where a plot of land is leased and they keep their produce.

Questions turned to whether Parks requires insurance for other activities and if so, what activities. Rutledge wasn't sure what types of agreements Parks has entered into and suggested the risk manager could best answer that question.

The e-mail from Eric Veum, Risk Manager agrees with the City Attorney's office, Real Estate and the Mayor's office that the group should be an organized and incorporated entity and enter into a lease or use agreement that contains the city's standard language including indemnification and insurance. It was then noted that Park Commissioners had requested that both he and the City Attorney be present when this issue was discussed so they could explain their recommendations, yet neither of them were present.

Concern was voiced over whether the Park Commission had the authority to waive liability in the parks but Commissioners felt it didn't matter whether they did or didn't because there is no liability. The recreational immunity statute is clear. The MOU asks people to waive their right to sue which they already do as volunteers. The concern is whether this requirement could negatively impact the different types of volunteer projects, such as clearing invasive species from conservation parks.

The Parks Division just received the draft MOU that afternoon and hadn't had an opportunity to review it, nor had the City Attorney's office or Risk Manager seen it. Disappointment was again expressed by Commissioners that neither the city attorney or risk manager was present. Commissioners noted if we want this project to move forward we needed the Risk Manager, City Attorney and alders on our side.

The motion was restated: A motion was made by Chewing/Scarborough that in keeping with the ACA's recommendation that a formal agreement be entered into between the city/Parks and volunteers which would include all of the points that are in the ACA Edible Landscaping memo with the exception of the recommendation for insurance and indemnification, approving the Memorandum of Understanding presented by the Madison Fruits and Nuts group.

It was pointed out that if this body passes this motion, it doesn't go to the Common Council for review. The alternative is to hand it to the council and then we're abrogating our responsibility to the City Council. It was suggested that the MOU could be used as a guide for volunteers in parks that service our fruit trees and that the ad hoc committee chaired by Ald. Rhodes Conway could use it as a framework to implement or develop a city policy for edible landscaping on all city property.

President Barker asked if there was further discussion, hearing none he called for a vote. MOTION CARRIED with Skidmore voting No.

He added that we don't have a policy for fruits and nuts just a memorandum of understanding.

ADJOURNMENT

On motion of Wallner/Scarborough the meeting adjourned at 11:48 p.m.