
GENESEE COUNTY PARKS & RECREATION COMMISSION MINUTES

The semi-monthly meeting of the Genesee County Parks & Recreation Commission was held on Thursday, June 25, 2009 in the Conference Room of the Genesee County Parks Administration Building, 5045 Stanley Rd., Flint, 48506.

MEMBERS PRESENT: Joe Krapohl, Ted Henry, Archie Bailey, Billy Bradshaw, Jim Washington, Bill Lucas, Mike Keeler, Jeff Wright arrived at 10:08 a.m.

MEMBERS ABSENT: Bob Ranger, Patrick Gleason

STAFF PRESENT: Amy McMillan, Director; Ron Walker, Deputy Director; Deborah Wilkes, Secretary; Hilda McShane, Marketing Specialist, Nancy Edwards, Program Coordinator; Leisa Gagne, Finance Officer; Brian Barkey, Legal Counsel.

(1) **Call To Order**

President Krapohl called the meeting to order at 10:05 a.m.

(2) **Opportunity for the Public to Address the Commission.**

No one from the public addressed the Commission.

Five-Year Plan – Public Hearing

President Krapohl opened the public hearing with respect to the Five Year Parks and Recreation Plan 2009-2013 and opened the meeting to public comments. There were no public comments. The public hearing was closed.

(3) **CONSENT AGENDA**

Discussion: No items were removed for discussion.

Action Taken:

Motion by Commissioner Lucas

Supported by Commissioner Washington

Motion and support for approval of consent agenda items.

Roll Call:

Yeas: Bailey, Bradshaw, Henry, Keeler, Krapohl, Lucas, Washington

Nays: None

Absent: Commissioner Wright arrived at 10:08 and missed this vote. Commissioners Ranger & Gleason are absent.

MOTION CARRIED 7-0

(4) **REPORT FROM LEGAL COUNSEL**

Discussion: Martha Merkley Trust Interpretation: Mr. Barkey passed around a letter regarding wildlife management. The letter is from L. David Lawson, counsel for Citizens Bank Wealth Management, NA, Trustee of the Martha K. Merkley Trust Agreement for the benefit of For-Mar Nature Preserve and Arboretum. The letter states that the Trustee agrees to file a joint petition with the Genesee County Park in the probate court to seek instructions from the court and/or interpretation of the Trust provisions and the power or authority of the Trustee, if any such proposal is implemented.

The trust has language that restricts use of For-Mar and restricts the use of funds at For-Mar. The provisions are vague and subject to more than one interpretation. The trustee has determined that a prudent course of action to file a petition with the court to help us interpret the trust documents in light of what is proposed in the wildlife management plan.

Mr. Barkey explained that we are being asked to join with the trustee in that petition to the probate court and the commission must vote to move forward with this joint petition.

Action Taken:

Motion by Commissioner Wright
Supported by Commissioner Keeler

Motion and support to approve legal counsel joining with Citizens Bank Wealth Management, Trustee of the Martha K. Merkley Trust Agreement for the benefit of For-Mar Nature Preserve and Arboretum to jointly petition the Genesee County Probate Court for instructions and/or interpretation of the Trust provisions and the power or authority of the Trustee.

Ayes: All ayes

Nays: None

Absent: Commissioners Ranger & Gleason are absent.

Commissioner Wright asked about the status of the quiet title suit on the park properties. Mr. Barkey filed a motion to dismiss, we submitted affidavits and briefs and the judge has taken the matter under advisement and that is where the case stands.

Commissioner Wright said there is a bigger issue statewide regarding public lands and the quiet title issue particularly in the matter of bike trails with users claiming title to some of the bike paths and surrounding property. A lower court ruled in favor of the public lands and the Appellate Court ruled in favor of the people trying to take the public land and it is in the Supreme Court now. Mr. Barkey said the Spencer case involves the adverse possession law where there are two adjoining property owners and one person uses the land in an open, notorious and hostile way and after 20 years that person owns the property whether it is included in the legal description of their deed or not. The state law says that as far as public property is concerned there is no such thing as adverse possession. What that provided for is that public parks do not need to vigilantly guard their borders. We couldn't lose our property in that matter. However, the answer that came out of the Michigan Appellate Court in a case arising from Marquette, that if the public entity files the lawsuit first they are protected from adverse possession lawsuits. If the case is filed by the adjoining neighbor first, the public entity is subject to losing the property to adverse possession just like anybody else could. What has happened in Oakland County is that the public entity surveyed their property borders and found all kinds of small encroachments, people mowing the property, fences on the property. Oakland County has filed 54 quiet title actions because under the Marquette ruling they had to, otherwise they would lose the benefit of the statute that protects them, so they filed the lawsuits. Commissioner Wright asked what the Parks is doing to survey our properties to make sure this doesn't happen to us. Ms. McMillan said that we have started last year with Bob Davis, our Park Planner working diligently at assembling our deeds and titles and looking for areas of concern. If you remember a few years back we had an issue with the Mounds property not having gone through the last signature required at the state level. We have a couple small issues we are working on, with relation to a life estate. Mr. Barkey there is a second aspect in addition to searching deeds and titles at the register of deeds offices, it's going into the field and actually surveying the property and if you see an encroachment, filing suit before the neighboring property owner does file suit.

(5) **DIRECTOR'S REPORT**

A. Reminder: There is a budget meeting after this regular commission meeting.

B. 5-year plan: The parks commission took action on this plan earlier in the year in order to approve it for public review. With public input having been allowed it now moves to the Public Works Committee for review, then the Board of Commissioners and after their approval it will be submitted to the DNR. We have until the end of December before the current plan expires, so we are ahead of schedule.

C. MTA Service to Bluebell- MTA has added Bluebell Beach to their transportation schedule and the bus runs will begin June 29. Six times a day, three times in the morning and three in the afternoon – six days a week. We hope they will consider extending their bus routes to Stepping Stone Falls, Bluegill Boat Launch and Crossroads Village. People could then get to the fishing areas; and they could bring their mount their bikes to the bus and access the bike paths as well.

D. Park attendance – Our attendance is up tremendously and Buttercup Beach was closed because we reached capacity in the parking area. If you hear of beach closings, it's not because of water quality issues, it is because the parking lots are full. In spite of the heat, the crowds are enjoying themselves and are well behaved. Staff is doing a great job keeping up. Part of the reason our parks are attractive and safe is attendants and rangers are doing well controlling the crowd and the parks are kept clean, mowed and beautiful by our maintenance staff and groups that are planting our entrances and flower gardens. When people see that we value the parks by taking care of them, they feel valued as a customer and generally behave better as a result. She wants to compliment the staff for the great job they are doing.

E. Filming at Crossroads – Filming wraps up this Friday. They have had a great experience and we've gotten great coverage, even statewide attention. We are updating our website to include news and print coverage about this filming so people who may be looking for locations about filming at Crossroads can access that information. We are very pleased with the experience. This is a small film production for the National Parks Service to be shown in a National Park.

President Krapohl spoke with John Allen of Signature Productions and he was very complimentary of Amy and Garry (Pringle) for the level the cooperation they have gotten at the Village. They said everything has been fantastic with regard to making sure our staff has provided everything they needed while out there. President Krapohl said that is good to hear and advertising that you just can't buy. Ms. McMillan said that Garry and Paul (Dalleska) have really done all the hard work and have done a tremendous job.

(6) OTHER BUSINESS

There is no other business.

(7) OPPORTUNITY FOR COMMISSIONERS TO ADDRESS THE COMMISSION

Commissioner Bradshaw asked if the MTA time schedule will be posted. Ms. McMillan said it will be posted downtown.

Commissioner Henry asked if transportation will be considered to our other beaches. There are MTA bus garages in Swartz Creek, Flushing and Grand Blanc and doesn't see why they couldn't. Ms. McMillan said this is kind of a test although she has seen Your Ride at Clover Beach pretty regularly. This is the first time they have opened this route to the public. MTA has always been great to work with when we have needed anything. We worked with them about staff transportation when the price of gas was so high but staff didn't seem interested in using public transportation.

Commissioner Wright invited the commission to attend a meeting at Mott Technology Center (the site of the old St. Joseph Hospital at 4pm today to hear information about the results of the water pipeline study. He believes this is the first step to actually moving forward in the construction of this project. There have been issues with Canada, but they have backed off, they were misinformed. They believe the water is being diverted from the watershed. But we are asking for the water to be used for the same purposes Canada uses the water: for hospitals, people, schools, and businesses. Diversion would be shipping it to Arizona, Florida, Georgia, etc. They now understand we are not doing that.

(8) OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE COMMISSION

There are no members of the public present.

(9) ADJOURNMENT With no objections made, President Krapohl adjourned the meeting at 10:29 a.m.