

PARKS COMMISSION MEETING
Lincoln Township Municipal Building
2055 West John Beers Road
Stevensville, Michigan 49127

Tuesday, August 1, 2006

The meeting was called to order by Chairman Gardner at 7:05 p.m.

COMMISSIONERS PRESENT: Todd Gardner, Kim Risk, Rick Knight, Bill Tucker, and John Hoskins, Mike Lucker and Rich Knapp. **ABSENT:** None.

ALSO PRESENT: Debbie Bly, Tom Norbey, David Boelcke, Bill Bancroft, and a resident.

Opening – Audience Comments: None.

Secretary's Report: Risk reported the parks website is updated frequently and people may sign up for an e-newsletter. Members of parks and recreation groups should contact Risk or Tucker if they have information to post or a link to add to the site.

Tucker, seconded by Hoskins, made a **MOTION** to approve minutes from the July 11, 2006, Parks Commission meeting as presented. Chairman called for a roll call vote: Aye: Knapp, Knight, Tucker, Gardner, Risk, Hoskins, Lucker. Nay: none. **MOTION UNANIMOUSLY CARRIED.**

Treasurer's Report: Parks bills received total \$2,499.24, leaving an Operations Budget balance of \$95,402.10. Hoskins will call Pooch Welding concerning billing; invoice removed. Tucker will call Baber's Marathon concerning billing and check into invoices for Metro Business Furniture and Ken Zilke for moving sand. The Capital Budget balance is \$70,545 with \$30,000 land payment due in November.

Knight reported on recommendations from the budget committee meeting. Money is available from the Operating Budget to pay for tree trimming. Priorities for 2006-07 Capital funds and \$15,000 in Capital funds accumulated from previous years are as follows:

- \$10,000 towards bathrooms and concession stand project at Rockey Weed Sports Complex
- \$10,000 towards Rocket Football field development project at Rockey Weed Sports Complex
- \$10,000 towards Community Park improvement and development project
- \$5,000 towards dugout replacement and/or repairs at Youth Baseball/Softball Complex
- \$5,000 toward water infrastructure at Lincoln Township
- \$5,000 toward Glenlord Beach improvement project

Tucker explained the Parks Commission is using low-risk prison labor to tear down unstable decking at Glenlord Beach at a minimal cost of \$176 per day for supervision. This type of work could have cost \$5,000 to \$10,000.

Gardner, seconded by Tucker, made a **MOTION** to pay bills as presented in the amount of \$2,499.24. **MOTION CARRIED.**

Report of Officers: Tucker stated concern for gates at the soccer fields not being secured when opened; Hoskins will look into it.

Discussed signs at Glenlord Beach and Lincoln Township Beach stating parks open at sunrise and close at 11:00 p.m. The township police close the gates at night, but are not able to open the parks at sunrise. Currently, the parks seasonal employee is able to open the parks by 8:30 a.m. Hoskins will change the signs to state "Open at 8:30 a.m.". Also discussed park signs stating "No dogs allowed". According to the Parks Ordinance No. 691, dogs are allowed at the parks if kept on a leash or in a secure container.

Tucker reported on DSL phone service activation for the Community Park and Parks Office; free wireless access will be available to park users at no extra cost. Risk will promote this free service to the community.

Tucker has received complaints about the boat ramp at Lincoln Township Beach. Beach users find it hard to walk up and down. Future plan is to add steps.

Risk reported a local scout, Dain Van Epps, is planning an Eagle Scout Leadership Service Project at Lincoln Township Beach. Risk and Gardner met with him last fall to go over possible projects. Van Epps will make 20 signs with botanical information to place along the nature trails. Lucker offered to provide scrap wood.

Risk contacted Michigan DNR Critical Dunes Department and found out a permit is not needed for Margaret Rose and her students to plant milkweed seeds in the northern dune area of Lincoln Township Beach. Gardner, seconded by Knight, made a **MOTION** to approve Rose's request to create a Monarch Butterfly way station in the northern dune area at Lincoln Township Beach. **MOTION CARRIED.** Chairman requested Risk send Rose a letter of permission to proceed with the project.

Hoskins and Risk met with a tree trimmer and looked at 5 parks: North Lake, Lake Street Beach, Pier Street Beach, Pine Street Beach, and Lincoln Township Beach. There are several dead trees and many limbs that should be removed for the safety of park users and adjoining property owners. Cut wood will be left at North Lake and Lincoln Township Beach to be available for fire pits. They will meet with another tree trimmer Saturday and present bids at September 5 meeting.

Discussed replacing sign at Rudnick Park. Risk is getting an estimate to make one like the original, which was stolen earlier this year. Hoskins will contact Mr. Rudnick to discuss replacement sign. Tucker will file a police report. Knight will check into filing insurance claims for the Rudnick Park sign, the recent weather-related damage to the sprinkler system at the soccer fields, and vandalism damage to the Community Park pavilion this spring.

Hoskins reported \$700 in necessary repairs made to the Parks truck used by the seasonal employee for hauling and trash pickup. The other truck with the plow attachment has 170,000 miles on it and needs at least \$500 and up to \$1500 spent on necessary repairs. Hoskins asked Commission to consider replacing one of the aging trucks.

Chairman's Report: Gardner clarified mention of concerns about Parks investments and earned interest in the June 6, 2006, minutes. When commission reviewed the May 31 budget statement, it was noted the interest earned fiscal year budget was \$100.00 and \$32.00 was earned in May. The commission expressed concern for the low numbers in respect to the Parks Budget of \$152,340. Gardner stated that while a large portion of taxes are collected in the winter, the township transfers the Parks budget in small chunks and allocates interest as they see fit.

Gardner reported concerns about the handling of parks mail at the township office. In some cases, mail personally addressed to a commissioner has been opened. There have been several occasions of Parks bills being paid before the commission has seen them. An Aquila bill the commission denied payment of was paid by the township without regard for Parks authority.

In April, three commissioners met with Plante Moran for advice on budget appropriations and heard from a Certified Public Accountant that the commission has the right to approve all bills before payment. The law states that once the township approves the parks fiscal year

budget, expenditures from the parks fund shall be on vouchers approved by the township parks commission, and it shall be the duty of the township treasurer to allow for and pay these vouchers on presentation to him or her. (Township Parks and Places of Recreation, Act 157, section 41.426c) The township board also reviews and approves the parks bills at their monthly meetings, even though the Parks Commission is a separate statutory authority. The township board does not approve monthly bills for the library.

Gardner stated the Parks Commission opened a separate Post Office to receive their own bills, but a township trustee pressured the Post Office to close it. Gardner has not received reimbursement for the box.

Gardner tried to work out compensation for commissioners with Township Supervisor Dick Stauffer, but Stauffer denied commissioners are officers of the township. Parks commissioners take an oath of office and may enter into contracts and buy or sell land.

Gardner proceeded to read from State Attorney General Opinions regarding Parks Commission issues and stated that a State Attorney General Opinion is the law unless the courts overturn it.

- Opinion No.6494: "Elective township offices shall consist of a supervisor, township clerk, township treasurer, not to exceed 4 constables, and not to exceed 4 trustees. Elective township officers may include library directors and park commission members." Frank J. Kelley, Attorney General.
- Opinion No.7039: First question asks whether a voter-established township parks commission created in a general law township continues in existence following the township's incorporation as a charter township. "The charter township act, however, includes no provisions for the dissolution or elimination of existing township park commissions. On the contrary, section 2 of the charter township act expressly preserves the offices of all elected township officers following the incorporation of a general law township as a charter township: *All officers of any township which shall elect to become a charter township shall serve in the offices to which they have been elected...for the balance of the terms for which they were elected...and until their successors elect or to be elected shall qualify for and assume their respective offices.* Since township park commission members are township *officers*, the foregoing provision mandates their continued existence following a township's incorporation as a charter township."

Second question asks whether a voter-established township parks commission may be dissolved by resolution of the charter township board or by vote of the township electors following the township's incorporation as a charter township. "Although the township parks act addresses how a township park commission is established, it is silent as to whether or by what means a township park commission may be dissolved. The charter township act likewise provides no authority for dissolving a township parks commission, either by resolution of the charter township board or by vote of the township electors. The absence of any township discretion to terminate township park commissions is further confirmed by provisions in the Michigan election code, MCL 168.1 *et seq*; MSA 6.1001 *et seq*. Section 341 of the election code provides that elective township officers may include park commission members. Moreover, section 358(1)(g) of the election code provides that there *shall* be elected several specified township officers, including park commission members in those townships having park commissions."

"The Legislature has not provided the authorization for, or the means of terminating the existence of a voter-established township park commission. Although not directly on point, the Michigan Supreme Court in *Cain v Brown*, 111 Mich 657, 661; 70 NW 337(1897), quoted with approval the rule regarding dissolution of municipal corporations: 'As they can exist only by legislative sanction, so they cannot be dissolved or cease to exist except by legislative consent or pursuant to legislative provision.' This rule, being applicable to other types of public entities, has been applied to consolidated drain districts, to county hospitals, and to local transportation authorities."

"It is my opinion, therefore, in answer to your second question, that a voter-established township park commission may not be dissolved by resolution of the charter township board or by vote of the township electors following the township's incorporation as a charter township."

"In the event the Legislature deems it appropriate to authorize the dissolution of township park commissions, it may adopt legislation granting such authority and specifying the procedures for its implementation." Jennifer M. Granholm, Attorney General.

- Opinion No. 5670: What authority, if any, does a township board have over the operation of a township park commission? "Addressing your second question, 1931 PA 271, Sec. 2, supra, does not limit the authority of park commission to acquire, maintain, manage and control township parks and places of recreation, including bathing beaches, and in the name of the township, to condemn land for such purposes. However, 1931 PA 271, Sec. 4, supra, provides a method of funding the township park commission and the township board may control the township park commission by the review of the commission's budget when the assessment, levy and collection of tax is used to fund the commission. If the township board decides not to use the method provided for in 1931 PA 271, Sec. 4, supra, and funds the park commission from the general fund, then the board would make a grant to the park commission which may be conditioned by the township board to be used only for certain purposes."

"Since the township park commission is given the authority to maintain, manage and control the township parks and places of recreation, it follows that it has control over its employees and the duties they are to perform. This authority is subject however to the township board passing on the proposed budget of the township park commission as to its reasonableness and necessity. Thus, the township park commission operates the parks and controls its employees within the budget approved by the township board."

"Therefore, it is my opinion that a township park commission is required to submit its budget to the township board for its approval in whole or in part. Once the budget is approved, the township park commission may operate without further approval of the township board." Frank J. Kelley, Attorney General.

- Opinion No. 5892: Once a township park commission has been given park lands or lands to be used for parks and has assumed responsibility for that land, does the park commission have the authority to determine how that land will be used? "It is my opinion, therefore, that once a township park commission has acquired or has been given lands to be used for park purposes, that land is under the management and control of the township park commission."

Where a township park commission has been given authority over park land and the township board might wish to use that same land for some other purpose than as park land, does the township board have the authority to use that land if the park commission does not concur with the decision of the township board? "Addressing your second question, within the budget approved by the township board, the township park commission manages and controls the township park property. 1931 PA 271, Sec. 2 supra; OAG 1979-1980, No 5670, supra. The township board is without authority to interfere with the operation of township park property by the township park commission. In response to your second question, it is my opinion therefore, that a township board does not have the authority to interfere with the use of land under the control of township park commission."

In regard to the township park commission budget, does the commission have any authority to initiate a millage vote? "Although it should be noted that 1931 PA 271 supra, Sec. 5, does authorize a township park commission to

submit to voters of the township at the annual township meeting the question of the issuance of township bonds, the proceeds of which shall be used in the acquisition of township park and recreational land, the Legislature has not authorized a township park commission to initiate a millage vote to fund its operating budget for maintenance of the township parks. Therefore, in response to your third question, it is my opinion that a township park commission does not have the authority to initiate a millage vote for the purpose of funding its budget for maintenance of its park system." Frank J. Kelley, Attorney General.

Gardner went over issues that have been a source of controversy between the Parks Commission and Township Board. He submitted a request for clarification from Supervisor Stauffer on when the township eliminated officer compensation for Parks Commissioners, but Stauffer replied only that commissioners are not officers of the township. The \$10.00 per hour pay for non-board job duties, which the commission raised to \$20.00 in March, has been in place for Parks Commissioners for at least ten years.

On July 12, 2006, Gardner asked for General Ledger reports for specific funds to be sent via email and the township lawyer treated this as a Freedom of Information Act request. In the past, requests for financial information from the township have been answered promptly. Gardner received a letter asking for a 10-day extension. On July 13, 2006, the township board had a Special Meeting, without notifying the parks commission, and began investigating how to dissolve the parks commission.

For three years prior, Parks had an \$18.00 per hour temp employee working unsupervised and turning in unapproved overtime hours in the summer. Current commissioner Hoskins has taken over the role of interim Parks Maintenance Supervisor, works 40-50 hours per week, drives his own truck with gas he has paid for, and submits a detailed time sheet signed by 2 other commissioners, yet he has to wait 90 days for compensation to be issued from the township.

Gardner stated animosity between the township board and the parks commission began in budgeting sessions earlier this year. Discussed lack of agreed-upon supervision on former temp worker by township maintenance supervisor and allocations of \$36,000 for compensation of township employees taken from Parks budget without our knowledge or approval. Risk read from the township's March 24, 2005, Special Meeting minutes regarding the Parks Maintenance agreement without any mention of expense to Parks.

Gardner stated the commission has an obligation to explore every funding opportunity before asking voters for a Millage to support parks. In Michigan, only 37% of parks millages in last 5 years have been approved. Gardner and other commissioners have received many calls and emails of support in pressing the township to address parks funding.

Mr. Bancroft stated parks are not a priority of the township board. He encouraged the commission to stick with it and try to work things out for the benefit of the community.

Old Business: No reports.

New Business: No reports.

Parks Projects –

Glenlord Beach – See Report of Officers.

Baseball/Softball Fields –

Soccer Fields –

Beach Parks – See Report of Officers.

Announcements: None.

Adjournment: MOTION to adjourn was made by Chairman at 9:20 p.m.

_____ Date _____
Submitted by Kimberly Risk
Parks Commission Secretary

_____ Date _____
Approved by Commission
Todd Gardner, Parks Commission Chair