

PARK & RECREATION BOARD AGENDA

Monday, July 11, 2016

6:30 P.M. - City Hall Conference Room

1. Self Introductions. Current members of the Park and Recreation Board are: Lee Wooldridge (Chair), Linda Cosgrove, Martha Wooldridge, Michael Villanti, Stephen Dorner, Kelsey Proctor, Pete Tracy (Vice-Chair). City Council liaison is Steve Johnson. Planning Commission liaison is Les Poole.
2. Approval of June 6, 2016 Minutes.
3. Storm Line Replacement in Nature Park/Trail – Jim Whynot (no attachments)
4. Discussion of Recreational Immunity – Steve Johnson
5. Update on Cost for Swings/Equipment at Robinhood Park – Jim Whynot (no attachments)
6. Update on Dog Waste Bag Stations for Parks, Costs & Alternatives – Jim Whynot (no attachments)
7. House on West End of Ames Park – Michael Villanti (no attachments)
8. Update on Park Rules Signs – Michael Villanti/Jim Whynot (no attachments)
9. Park Rules – Kelsey Proctor will provide copy of previously discussed rules at the meeting (no attachments)
10. Business from Staff
11. Other

PARKS & RECREATION BOARD MEETING MINUTES

JUNE 6, 2016, 6:30 P.M.

GLADSTONE CITY HALL CONFERENCE ROOM

1. Present in the room were Board members: Lee Wooldridge (Chair), Martha Wooldridge, Stephen Dorner, Linda Cosgrove, Michael Villanti, Kelsey Proctor, Jim Whynot (Director of Public Works) Steve Johnson (City Council Liaison), Guests in the room included: Nancy Turner, Susan Liston, Toni Krummenacker, Melinda Bangle, John Eichsted, Linda Garlington, Nancy Eichstead, George Krummenacker, Bill Preble, Wendy Garlington. Representing the Port of Portland were Lisa Apple and Kelly Madalinski. Pete Tracy (Vice-Chair) and Les Poole (Liaison to the Planning Commission) were absent. Lee called the meeting to order and self introductions were made.
2. Minutes from 5-2-16 were reviewed and approved.
3. Changes to the Parks Board: Steve Johnson has now been appointed liaison to the Parks Board from the City Council replacing Neal Reisner. Thank you Neal for all of your support. You will be missed.

4. Request for Swings at Robinhood Park: Toni Krummenacker is here representing her neighbors, requesting a swing set for Robinhood Park. Jim will check into the cost and the appropriate equipment and report back to the next meeting.

5. Discussion of Committees: Steve reports that the City Council is reviewing committees. The Parks Board will have 9 members. One voting Council member and one voting Planning Commission member with seven voting citizens. There must be 5 voting members present for a vote. The City is designing a new website with more complete information.

6. Survey of Meldrum Bar Park: Linda would like to know if it would be of value to conduct a survey of the users of this Park. Who is using the Park when, and why and where do they live? Are there Parks elsewhere that do surveys? Lake Oswego is thought to do surveys. Although this information may be useful, there are not enough people or time available to do this and there is not a plan to use as a guide. This may be discussed again following completion of Master Plan. At our April meeting Pete reported that he had done an unofficial survey of the people fishing at Meldrum Bar Park. Of the 66 people he

talked to, 10 lived in the City of Gladstone. The others lived elsewhere.

7. Fathers Heart Meals: Michael Villanti reports that Cross Park is recipient of litter from this ministry. Would it be possible to ask the City to contact this group and request a better clean up following their service. Could they be more cleanly and courteous to residents? Steve will ask Eric to contact this group.
8. Vandalism Signs: (From Linda) Per Jeff, the Public Works phone number will be used -- 503-656-7957. This will be added to Park Rules Signage.
9. Dog Waste Bags Stations: Per Michael, he has checked with three other cities. Per Jim, our Parks is currently paying \$65.00 for three thousand. Jim does not know how much per year our Parks is paying. Lake Oswego has sponsorship of bags at one park. However, Michael does not recommend this. The dispenser, garbage can and signage need to be together. Michael is requesting a station at each entry of Ames Park and at Cross Park. Jim will consider cost and report back to the Park Board.
10. Status of Gladstone Nature Park: This was sent from Council to legal for a determination of the question of

selling the property some months ago and has not been returned. Per Steve, it is anticipated that the Council will not make a decision prior to the November election. Please let Parks know when the legal decision has been returned.

11. Business from Staff: Per Jim, new arborvitae has been planted at the entry to Meldrum Bar Park replacing the dead trees. Two cedars will be removed at Max Patterson Park due to root rot. Replanting to be determined at a later date.

12. Park Rules: These were sent to Council several months ago. Per Steve, they are missing and cannot be located. Kelsey has a copy and will retype them and bring them to the July meeting.

13. Mitigation Project at Meldrum Bar Park: Kelly Madalinski and Lisa Apple representing the Port of Portland presented an update on the project. The IGA was approved and signed. Planning has been completed and permits have been applied for. The Port of Portland is paying Sisul Engineering to represent the City and they are currently reviewing the plans. Work will begin in July and end in August. Coordinated with Clackamas River Basin

Council is ongoing. Signs are finalized and will be posted after coordinating with Jim. Fliers will be distributed as needed and posted on Gladstone website.

14. Meeting was adjourned. As the first Monday in July falls on a legal Holiday, the Parks Board will meet the second Monday, July 11, 2016 at 6:30 pm.

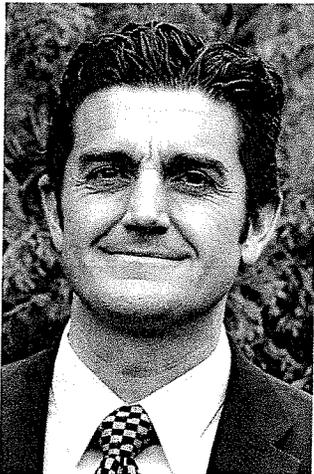


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Changes to Recreational Use Immunity Law – How Will Cities Navigate These Unfamiliar Waters?

A dad and his daughter visit a city park, where they both begin swinging on the large swing set. Suddenly an “S-hook” fails and the man falls to the ground and breaks his arm. The man later sues the city and names the park maintenance employee as part of his suit. Prior to a recent Oregon Supreme Court ruling (*Johnson v. Gibson*), the city could stop this type of suit—having it dismissed—by asserting that recreational use immunity protected both employee and the city from being sued.

That protection exists no longer.



Kirk Mylander, CIS General Counsel

This change to recreational use immunity came about after the Oregon Supreme Court held that individual government employees are not “owners” under the Oregon Public Use of Lands Act—and are no longer protected by recreational use immunity. As a result, CIS expects to see a sharp increase in lawsuits filed directly against individual city employees who operate, maintain or repair recreational areas. City leaders from all over Oregon are looking to CIS for trusted advice and expert legal counsel on what to do next.

According to CIS General Counsel Kirk Mylander, even after *Johnson v. Gibson*, recreational immunity technically still applies to cities. However, it no longer applies to their employees.

Using the swing accident example, recreational immunity would stop the lawsuit from going forward against the city, but recreational immunity would have no effect on the case against the employee. And who pays for the suit against the city employee? The city. Therefore, the outcome is just like the city being sued directly, as if recreational use immunity never existed. Of course, cities that are insured through CIS will continue to have their defense costs covered by CIS.

Because recreational use immunity is no longer in play, plaintiffs can move forward with lawsuits, but will still have the legal burden of proving that a city employee was negligent, and that the employee’s negligence is what caused the injury

to the plaintiff. The defending city, and its employee, will then have the opportunity to bring forward evidence showing that they were not negligent, acted reasonably, and did not cause the person’s injury.

With this change to the law, it’s absolutely critical for each city in Oregon to put maintenance plans in place. The plans demonstrate that recreational equipment is regularly inspected and maintained. As part of the maintenance program, it’s important to document routine inspections—when a piece of equipment is found to be in need of repair, and the steps city staff took to remove the equipment from service. It’s also important to document when the replacement part was ordered.

Cities that can prove that their park equipment is checked and maintained on a regular schedule will be in a much

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stronger position to defend lawsuits. And for cities that have no documentation at all? They are at much greater risk and may find themselves ill-prepared to win these types of cases.

Again, being proactive can protect cities from costly lawsuits.

In the case of the failed S-hook that sent the man tumbling from the swing? According to CIS Claims Manager Jim McWilliams, those hooks should be on a two- to five-year replacement schedule.

“With the change in the law, it’s more critical than ever before that cities make routine maintenance a priority,” said McWilliams. “It needs to be on a schedule and it must be documented.”

While the loss of recreational immunity puts cities at higher risk of costly lawsuits, CIS is working diligently with the League of Oregon Cities—as well as with the Association of Oregon Counties—on legislation to address the issue.

CIS members can learn more about the changes in recreation use immunity through two recent webinars—one answering frequently asked questions about the subject and the other using Enterprise Risk Management (ERM) to work through the challenges of responding. Check out the webinars in the CIS Learning Center at learn.cisoregon.org.

CIS has also created an online recreational immunity Q&A based on questions generated during the webinars, which can be accessed at www.cisoregon.org/RecImmunity. If you have additional questions, please email Kirk Mylander at kmylander@cisoregon.org.



**Jim McWilliams, CIS Claims
Manager**

Recent CIS webinar leads to more questions

Recently, CIS had two webinars about changes to the law and how to address recreational risks by using enterprise risk management techniques. As part of those trainings, questions regarding “discretionary immunity” also came up. Specifically, does discretionary immunity apply if a planned course of action isn’t approved by council? CIS General Counsel Kirk Mylander shared that discretionary immunity applies most clearly to a course of action, such as a street or park maintenance plan, when a governing body votes to approve or adopt the plan.

However, he added, discretionary immunity can also apply to policy decisions made by a department head—especially when there’s documented evidence that the department head is specifically authorized to make those policy decisions.

Mylander went on to suggest that if putting together a park maintenance plan is within the job duties of a public works director, then discretionary immunity should apply to any claim that alleges that the city should have adopted a different maintenance plan with different priorities.

It’s understandable that some elected officials may be concerned about the perception of a maintenance plan that acknowledges there’s not enough money to perform all the maintenance a city would like to get done. Still, a deferred maintenance plan could be used to create awareness for voters about where maintenance dollars are being spent, and demonstrate that additional revenues would be put to good use—keeping citizens safe.

“Policy makers need to be clear about the importance of approving deferred maintenance in an actual plan,” said Mylander. “I urge city leaders to watch the recorded version of CIS’ recent webinar to learn more.”

