PARK BOARD

ST. JOHN, INDIANA

September 1, 1998

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The Park Board of the Town of St. John met on this date with the following members present:

Attendee 1, Eileen Butcher
Attendee 2, Joan Millis
Attendee 3, Mary Anne Koke
Attendee 4, Paul Haller
Attendee 5, David Wickland, Attorney
Attendee 6, Fred Kish, Council Liaison

The following members absent:

Absent 1,
Absent 2,
Absent 3,
Absent 4
Absent 5
Absent 6

PLEDGE OF ALLEGIANCE

The August meeting (postponed from August 25) was called to order at 7:00 PM by President Eileen Butcher, followed by the recitation of the Pledge of Allegiance.

APPROVAL OF MINUTES

Discussion: Eileen Butcher wanted clarification noted that on page 6 under Any & All, that the Park Board was not discussing Heartland Park, and that the Park Board does not own East Park Complex.

- Motion by Mary Anne Koke, seconded by Joan Millis, to approve the minutes of the July 28th meeting as amended. Passed on voice vote.

OLD BUSINESS

St. John Heartland Park

There is nothing to report at this time.

Prairie West Park Seeding

Eileen Butcher noted that the Town paid $3,000.00 to have the land rototilled. Joan Millis distributed copies of a proposal from Allen Landscaping showing costs for herbicides ($105.00), soil preparation ($1,992.00), dry seeding including fertilizer ($5,293.00), and erosion blankets around 3 manholes ($125.00). The erosion blankets have been double-installed to prevent erosion of the black topsoil.

Joan Millis explained that when Lantern View was seeded, the Park Board bought the seed and Herman Monix dredged the land, spread the seed, and dragged it. Costs for 200 pounds of seed varies from $.85 to $1.00/lb. She recommended that the Park Board ask Mr. Monix to do the work in Prairie West this fall, as an independent contractor using his own equipment. The Board supports using him because of the quality of his work and is anxious to get the work done before the September meeting, however, the costs of his time and labor were unknown. Joan noted that he had "bush-hogged" Heartland Park for which he will be paid. She suggested that a cap be set at $2,500.00 for materials and labor. Gas for the equipment could be paid for through the Town.

- Motion by Paul Haller, seconded by Joan Millis, to set a cap of $2,500.00 for soil reparation and dry seeding of Prairie West Park, to be performed by Herman Monix. Passed unanimously on voice vote.

Paul Haller suggested that the Park Board begin planning for parking for users of any new equipment that may be placed in the park. Eileen Butcher noted that she had approached the Town about help with the cost of a parking lot just east of the lift station, perhaps with funding from the recycling program. Joan Millis is soliciting bids.

Basketball Court

1. Homestead Acres
2. Lancer Estates

Joan Millis received a request to install basketball nets in Larimer Park. Eight chain nets were ordered at a cost of $76.54; four have been installed at Homestead and Larimer. Four additional nets are on hand in inventory.

Lantern View Park – Seeding

Joan Millis noted that 40' of sidewalk is still needed after the curb cuts have been approved. She has a list of projects that need to be completed at the same time to finish the park, then seeding needs to be completed this fall. Erosion blankets have been installed around the manholes. The estimated cost is $1,979.00, including $413.00 for the erosion blankets. Topsoil is needed with the seeding. Mary Anne Koke recommended a cap of $1,900.00 and a request to Herman Monix to complete the work.

- Motion by Mary Anne Koke, seconded by Joan Millis, to authorize an expenditure of $1,900.00 for topsoil, dry seed, and erosion blankets for Lantern View Park. Passed unanimously on voice vote.

Sun Meadows -Easement Encroachment

David Wickland provided an explanation of the opinion he gave to the Park Board on park encroachment which caused some controversy at last month's meeting. He noted that residents' use of the park for their gardens, swings, sandboxes, or as an extension of their back yards is legally inappropriate. "Adverse possession" describes a law whereby someone who uses someone else's property for a period of ten years gains the property, i.e., owns it without obtaining a deed. The adverse claimant has to file a lawsuit and has the burden of proving that "such possession was actual, visible, open, notorious, exclusive, and continuos for the statutory period of ten years"; however the Town could use its right of eminent domain to condemn the property to get it back, incurring considerable expense to do so. David Wickland felt that residents should be given time to harvest their gardens and move their belongings.

The Town's insurance agency of record (the Braman Agency) has received a response from the insurance company, that for liability reasons, they highly recommend against allowing encroachment, stating that neither the Park Board nor the Town can condone or allow this behavior. Mr. Wickland inquired whether the Town could lease part of the property to avoid the adverse possession question, or license a parcel of the real estate; this could be done, however, the insurance company again concluded that this should not be done.

Mr. Wickland also inquired whether there could be an indemnification waiver from the homeowners for claims for damage or losses as a result of the use of the property. The insurance company again said no, since the indemnity would not run to anyone who might use the property (neighbors, friends, guests, etc.). Sandboxes, swing sets, and swimming pools of any size are considered "attractive nuisances", none of which are maintained by the Town. Finally, he concluded that it would not be fair to everyone.

Paul Haller noted that people he had talked to who had been upset at first have changed their attitude to agree with the Park Board's actions. David Wickland further explained that this situation differs from an easement, in that an easement is for the Town to maintain a utility (such as a sewer or water line) in a particular parcel owned by the homeowner, subject to a request to remove it at the time of maintenance.

Daniel Clough, 8821 Verbena Drive, stated that he has nothing on park property behind his home, and objected to the letter that stated he was encroaching. He does mow the property since no one else takes care of it. David Wickland stated that the Park Board will continue to assume responsibility for mowing the park.

Lori Pondinas, 8781 Verbena Court, also has mowed the park property behind her home. She objected to the letter, and suggested that the Park Board could have thanked the numerous homeowners who have been maintaining the property for many years. She inquired what would happen if a homeowner was injured on park property. In response, David Wickland stated that mowing is an insufficient condition to establish "adverse possession", and stated that there is a fine line regarding the liability and insurance questions. The Town has insurance to cover injuries on Town property, but the question is whether the Town could be considered negligent; he felt that having the Town's Park Board responsible for mowing would prevent such a situation. He reiterated that the form letter was sent to every household to preclude the expense of having an engineer survey every lot.

Bob Dills, 8761 Verbena Court, also objected to the personally addressed letter which stated that he was encroaching on park property (which he is not), and that it was a matter of public record. David Wickland explained that the Town had to go "on record" to preclude someone filing suit for adverse possession. He had advised the Park Board to send the letter to those who were encroaching to protect the Town and its rights to the park property, however the letter was sent to 26 of 27 residents of the neighborhood.

Mr. Dills inquired whether he could be fined for non-compliance, and objected to being accused of something that was not explained in the letter. Mr. Wickland responded that the Park Board never intended to levy fines, or is it clear that an ordinance is in place for fines to be levied. The only purpose of the letter was to protect the Town's property from adverse possession and to ask those who had personal things on the park property to remove them within the 90-day period. Some residents were uncertain of the location of their property lines.

Joan Millis extended apologies to those who received the letter who were not in any way using the park for personal reasons. She reiterated that the letter "of record" was only for Town purposes and would not be filed with any other governmental unit. Help may be available from the Building and Planning Office to identify lot lines. David Wickland suggested that the resident could return a letter to the Park Board stating his objections. The Park Board will review properties after October 13th.

Lori Pondinas learned from her attorney that a document could be drawn up at a very reasonable rate for all the residents, stating that they would not seek to own the land or sue for injury. David Wickland responded that such a license or indemnity agreement is considered inappropriate by the insurance agency. An indemnification by the resident is not broad enough, as it would not cover a guest or visitor to the park.

Mrs. Pondinas inquired what the next step would be. The Park Board will review each property individually and request the homeowner to remove offending objects, or seek a court order if necessary to enforce the law and comply with the insurance company.

Vicky Jahaske, 8800 Schillton, inquired about the safety of children who go near the wetlands in the park. She recommended that the Park Board post a sign warning them to be careful. The wetland area would never be mowed.

Paul Haller inquired whether the land could be returned to the developer. This is highly unlikely, since the land is now owned by the Park Board.

David Wilken, 8741 Verbena, indicated he will continue to mow the entrance to the park property that was sodded some years ago, since he felt it was unlikely the Park Board would have it mowed as often as he mows it. Residents cannot expect reimbursement for sodding improvements. Mary Anne Koke felt that a phone call to a board member requesting approval for such an action is "not the same as taking a vote at a Park Board meeting."

A resident inquired about mosquito control. The Town has been putting briquettes into the storm sewers to try to kill the larvae, as well as spraying with a contact spray, known as "bio-mist." Mosquito control is under the control of the Town Council.

Mr. Clough, 8821 Verbena Dr., indicated that he used to mow almost to the marsh area but now mows less to reduce access to a dangerous drop off. Joan Millis offered to have Public Works look at the drop off and the removal of dead trees later in the fall.

Mrs. Pondinas inquired about the difference between an injury in one's own garden on park property, versus. an injury on park equipment. David Wickland responded that the Town does not want responsibility or liability for any equipment it does not maintain. But further, it makes no sense for the Town to allow use by some people and not others. There are no known past claims for injuries on park property. Park Board members confirmed that they will pursue removal of any encroachments in any other parks as they become aware of problems.

St. John Eagle Scout Project, Troop 550

This item will remain on the agenda until the Eagle Scout candidate, Brian King, confirms or drops his proposed project.

St. John Garden Club

This item will remain on the agenda until the Club returns with a plan.

NEW BUSINESS

Larimer Park Memorial Beautification Project

Joan Millis presented a proposal from Allen Landscaping for $1,134.76. She noted that last year several bushes were removed; only one remains. The memorial would be beautified with simple plants and bushes. Projects under $1,200.00 do not have to go out for bids.

- Motion by Paul Haller, seconded by Mary Anne Koke, to accept the proposal from Allen Landscape Center to beautify the Larimer Park Memorial for $1,134.76. Passed unanimously on voice vote.

1999 Lawn Care Bids

Joan Millis inquired about the maintenance contracts, since the monthly charge is $4,500.00, however the contract goes for a period of 6 months. David Wickland responded that the state law changed July 1st; the Town Council passed a new ordinance at its last meeting so that anything under $7,500.00 can be handled by the Town. However, the Park Board must still get three proposals or quotes for a public purchase. Public newspaper solicitation is not required.

Eileen Butcher expressed her approval of the lawn care service this year, and praised their responsiveness to all requests.

Fountain Removal

Joan Millis explained that for $150.00, Rick Rock will remove and service the fountain around the end of September. The aerators will remain in place. The subject will be reviewed at the next meeting.

Tree Donation

Eileen Butcher asked that board members approach three nurseries for donations of trees for the parks. There is no longer a State program to provide trees. Paul Haller inquired about the digging and planting; the nursery will be asked to donate this service as well.

Edgewood Estates Park (Ray Eggert – Developer)

Joan Millis explained that 5 acres of Edgewood Park along 90th Street is due to be donated soon. There have been drainage problems in the area along Tapper and 89th. Access is along a 15' easement with a curved, paved walkway between two houses. A second access is planned along 89th Place, where Kilkenny would abut it. Mary Anne Koke inquired about the tower proposed for Kilkenny. This was rejected by the Park Board.

Joan is closely watching the drainage issue so that the high residential area does not drain into the lower park area.

REPORTS

Programs –Contracts

Eileen Butcher confirmed that the fall programs have started up again to be conducted by the following people:

- Carl Dekker – basketball - $10/class – 2 hrs/week
- Pam Zych – aerobics - $24/hour – 2 hrs/week
- Pam Zych – volleyball - $20/class – 1 hr/week

- Motion by Mary Anne Koke, seconded by Joan Millis, to approve the contracts as read. Passed unanimously on a voice vote.

PAYMENT OF BILLS

Eileen Butcher read aloud the bills for payment:

2159	$1,200.00	McNamara Aquatic Weed Control – (park development fund)
2158	$86.50	St. John Sports
2157	$350.00	Bruce's Septic Services
2156	$4,533.34	Touch of Grass Law Maintenance
2155	$161.55	J. Metro Excavating, Inc.
2154	$14.80	St. John Municipal Utilities
2153	$42.62	Nipsco

2152	$80.00	T & M Tire Services
2151	$76.38	Ruim Equipment
2150	$60.00	Norma Yaeger, recording secretary

Motion by Mary Anne Koke, seconded by Joan Millis, to approve all bills as read. Passed unanimously on voice vote.

ANY AND ALL BUSINESS

Eileen Butcher reported receiving a newsletter from D. Slupczynski, President of Girls Softball. He states that while the league has made many improvements. Future efforts must be coordinated by the Softball League and the Town of St. John. He urged people to attend Park Board meetings to "demand a quality complex that the citizens and their tax dollars deserve. Central Park has yet to materialize; facilities should be equal to the taxes that are paid. A new town hall has been built, new equipment and trucks have been purchased, along with facilities for hockey. Softball representatives should attend and demand action on a quality softball complex. Nothing is being done by the Town to improve East Park, or to start a new park to meet the demands of a growing community."

Eileen Butcher expressed some frustration for the lack of recognition for the work that has been done there, and that the Park Board is on hold with no funds for improvements. Mary Anne Koke explained that the park cost $45,000.00 to start it up, which will never be repaid.

Joan Millis reported that she had instructed the Septic Service to pull out the porta-potty in Keilman Park since baseball is over. The remainder will come out after Labor Day, except for East Park.

Mary Anne Koke asked to have the budget on the agenda each month, and to see more budget information. E. Butcher noted that the Park Board has been allotted an additional $40,000.00 for next year's budget, for a total of $98,571, as a result of "surplus cash" this year. Mary Anne Koke noted that the "Park Board had been promised that they would get the money when they needed it." The Town Council needs to approve it before it is finalized.

Joan Millis noted that when the Ice Arena Fitness Center gets started, a fitness coordinator needs to be hired from the funds taken in by the Fitness Center. While the Fitness Center will become a Park Board responsibility, the Fitness Center will have its own budget. Surplus income will come back to the Park Board.

ADJOURNMENT

Motion by Mary Anne Koke, seconded by Paul Haller, to adjourn the meeting at 8:34 p.m. Passed unanimously on voice vote.

Respectfully submitted,

By: /s/ Norma R. Yaeger

Recording Secretary