

**BAINBRIDGE ISLAND METROPOLITAN PARK & RECREATION DISTRICT
REGULAR BOARD MEETING AUGUST 5, 2021
ZOOM VIRTUAL MEETING**

CALL TO ORDER: A quorum being present, the meeting was called to order at 6:03 pm by Vice-Chair Kinney.

BOARD MEMBERS PRESENT: Ken DeWitt, Asaph Glosser, Dawn Janow, Jay Kinney, Tom Swolgaard.

ADJUSTMENTS TO AGENDA: Remove item 50.3, Resolution 2021-04: Authorize Executive Director or Designee to Sign Contracts. Add item 50.5, Washington Recreation & Park Association Grant with a motion to approve.

MISSION STATEMENT: Commissioner Kinney read the Park District's mission statement: The mission of the Bainbridge Island Metropolitan Park & Recreation District is to build a healthy community through effective, sustainable stewardship of the District's parks and open space, and through the development and delivery of innovative cultural and recreation opportunities.

BOARD CONSENT

APPROVAL OF MINUTES:

Upon making the following revisions to the minutes of the July 15, 2021 regular board meeting, Vice-Chair Kinney stated the minutes stand approved as corrected: On page 3, first sentence, change spelling of "bate" to "bait."

APPROVAL OF PAYMENTS: MSC: DeWitt/Swolgaard: I have reviewed the following vouchers, warrants and electronic payments and move that they be approved for payment.

Batch Date	Fund Number & Name	Warrant Numbers	Total Batch Amt	Pre-Approved
07/08/21	001 General Fund 300 Capital Improvement Fund	21516-21563	93,607.21	07/08/21
07/13/21	001 General Fund	21564-21574	49,109.61	07/13/21
07/21/21	001 General Fund 300 Capital Improvement Fund 310 Land Acquisition Fund	21575-21612	68,364.24	07/21/21
07/27/21	001 General Fund 300 Capital Improvement Fund	21613-21652	106,175.90	07/27/21
	001 General Fund (July Payroll)	EFT & 2836-2847	495,241.76	
08/05/21	300 Capital Improvement Fund	Pre-approval	90,237.83	

GENERAL BUSINESS

OPEN GOVERNMENT TRAINING: Executive Services Manager Helen Stone said Commissioner Glosser has completed his open government training, which is required within 90 days of taking office. Commissioner Glosser was presented with a certificate indicating he completed training in the Open Public Meetings Act, Open Public Records Act, and public records retention and management.

RENAMING OF BAINBRIDGE ATHLETIC CLUB: Executive Director Terry Lande said when the Bainbridge Athletic Club acquisition transaction closes this month, BAC will cease to exist and therefore the facility needs to be renamed. The suggested name is Bainbridge Island Recreation Center. **MSC: Janow/Glosser: Motion to rename the Bainbridge Athletic Club the Bainbridge Island Recreation Center. Commissioner DeWitt abstained from this vote.**

Gary Cooper said he is glad the name of the facility is being changed but asked if that means the intellectual property part of the procurement goes away and if so if there is a new sales agreement. Commissioner Kinney said that there is no new sales agreement, it is just a name change.

David Knight said he has lived on Bainbridge Island for 35 years. He along with several other people on the island heard of the Park District's intention to purchase BAC and have engaged the law firm of Bricklin and Newman to investigate it. It turns out they were right to question the transaction. The Park District's authority is governed by Washington State statutes and regulations and the Park District is enabled to purchase real estate and equipment. However, the Park District is not enabled to purchase the intangible assets of an existing business such as membership lists, goodwill, and intellectual property. The Park District has agreed to pay 3.8 million dollars for the intangible assets of the business in clear violation of the enabling statutes. Additionally, the payment to a private party represents a gift of public funds in violation of the Washington State constitution. The Park District lacks the statutory authority to purchase intangible assets and this acquisition would be in violation of the constitution. Bricklin and Newman advised the Park District by letter on July 26 that the Park District lacks the statutory authority to purchase the intangible assets and that it is in violation of the constitution. There has been no response from the Park District other than moving forward with the transaction. He said that seems unwise considering that both the Washington State Attorney General and the State Auditor are aware of the pending transaction. The State Auditor is required to examine all the financial affairs of every local government agency. If the purchase is completed as described in the purchase agreement the Park District will be found to have violated its authority when it is audited. The transaction will be voided, and the seller will be required to return the money while the Park District will be required to return the intangible assets. It seems wise for the Park District to seek a ruling from the State Auditor before the transaction closes. The Park District must take this matter seriously and should consult with experts, as it will likely be found that the Park District is not a qualified buyer.

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Commissioner Kinney said he has been an attorney for 37 years and he took the letter very seriously. While he is not a municipal law expert, he works with RCWs daily. RCW 67.20.010 gives authority to metropolitan park districts to buy and build recreation centers, field houses, etc. The Park District also has broad authority under the enabling statute RCW 35.61.130(3) which gives the Park District broad power to purchase things that are recreational in nature. Regarding the point about a gift of public funds, he has talked to an attorney who said a court would look at the whole purchase rather than parse it down to every item, and that the purchase is solid as it has been appraised. This is a unique opportunity for the island to have a community center, there are not multiple options to purchase a facility like this on the island. He thinks the acquisition is perfectly legal and wise and disagrees with the Bricklin and Newman firm on this, although it has been looked at very carefully. David Knight asked what happens if the Park District is wrong. Commissioner Kinney said that the State Auditor, who David Knight suggests issue an opinion is not the Washington State Supreme Court. Park District Attorney Hayes Gori said the Park District is taking the letter seriously, doing research and talking to experts in this area of law. Every indication is that the transaction is absolutely lawful, and the Park District has the authority to purchase real and personal property. There is statutory authority for that, and the case law looks strong in support. The Park District appreciates the letter from Bricklin and Newman, but the matter was investigated before the purchase and sale agreements were entered into and it is being looked at again now. The Park District is confident in its position.

Leland Parker said he has over 20 years of experience on public boards and commissions. While the Park District said BAC would be financially self-sufficient, despite numerous written requests the Park District has denied access to the operating statements which have been provided by the seller under the cloak of a non-disclosure agreement. He first asked for this information verbally on June 16 and Executive Director Terry Lande denied him a copy of the operating statements under the terms of the non-disclosure agreement, which is against the law. He asked why the Park District is hiding the numbers if BAC will be self-sufficient. The Park District is asking the public to cosign a 13-million-dollar loan based on trust. He asked

why the community should trust the Park District when facts are being hidden from the taxpayers. He said anytime one does business with a public agency, the information provided by the seller becomes public information, other than a few exemptions such as patented information. The Park District is not sharing the numbers provided by the seller or the budget projections that would show that BAC will be self-sustaining. Park District Attorney Hayes Gori said Leland Parker's two written public record requests were received and are being processed in accordance with the law. He clarified that the Park District is not required under the Public Records Act to produce records within five business days, but rather to confirm receipt of the request and to provide an estimate for production or an installment of the production of responsive documents. The Park District has many public record requests, and they are voluminous, and it takes a tremendous amount of work to process them. In this case the Park District is obligated under the PRA to give the seller third-party notice regarding the Park District's intent to release her financial documents, which are not exempt from disclosure. She is entitled to this opportunity to stop the disclosure of her financial documents, in which she has a proprietary interest. Leland Parker said the seller has no standing in this because the Park District as a public agency is required to release the documents and he has read the law in great detail. This is bad faith on the Park District's part and this foot dragging until the transaction is about to close is really sleazy. Hayes Gori said he will have to respectfully disagree with Leland Parker's reading of the PRA.

Andrew Welch said long-term he thinks the new Bainbridge Island Recreation Center will be a wonderful asset for the community and the Park District. He asked if it has been determined how the current and future memberships will be handled to provide the public access to the facility. Recreation Division Director Mark Benishek said that information is being finalized and will become public in the next few weeks for both current members as well as the entire community. Commissioner Glosser highlighted that the public will have access to the facility.

Keith Israel said he read the July 23 letter from the board about the purchase of BAC, and he is confused. The letter said the purchase will increase public access to the facility but the tennis courts at BAC are basically full already. He plays tennis once a week and takes group exercise classes. This morning he tried to book a tennis court for next week and was not able to because the courts were full at the time he was trying to book. He thinks most of the tennis players at BAC are seniors and asked what the Park District plans to do for them if more access is provided and if the Park District plans to kick them out. He thinks a better and more cost-effective approach would be for the Park District to spend 13.5 million dollars to build tennis courts at Sakai Park and expand there later with a facility as needed. For now, the Park District could contract for available exercise and weight room space to use at BAC. Commissioner Janow said the owner of BAC was first approached by potential buyers that would have removed the tennis courts completely. The owner then reached out to the Park District with the intent of keeping the facility a community asset. The facility is being sold one way or another, so renting part of it is not a solution. Keith Israel said another option is there may be other local buyers that would keep BAC much like it is. He agreed it would be great to open BAC up for more access.

Loanne Harmeling said she is speaking to Keith Israel and other members of BAC. The Bainbridge Community Tennis Association has a proposal for new outdoor covered tennis court facilities in Park District parks as well as for tennis courts at Sakai Park. She invited them to join the effort to lobby for additional tennis court access on the island.

Commissioner Glosser asked if there will be any opportunities to add to the name Bainbridge Island Recreation Center in the future to recognize contributions to the Park District or the community. Commissioner DeWitt said it is always possible for a future board to make a name change if deemed necessary.

ACCEPTING ADDITION TO TED OLSON NATURE PRESERVE WITH CONSERVATION EASEMENT: Senior Planner Perry Barrett said the conservation easement on the property additions to Ted Olson Nature Preserve will be the same as the one that is currently on the park. Staff recommends transfer of the property from the Bainbridge Island Land Trust and acceptance of the conservation easement. BILT Conservation Director Brenda Padgham said this addition to a special park was able to

take place thanks to the Park District, Bainbridge Island Parks Foundation, and a couple hundred very generous neighbors and islanders. They are excited to work with the Park District to steward the park over time. **MSC: DeWitt/Swolgaard: Move to accept the addition to Ted Olson Nature Preserve.** Commissioner DeWitt said this is an example of what happens when people come together for a common goal. On the island you hear about people who are sniping and making negative comments all the time but this is a case where people came together to achieve something positive, and it shows what the spirit of the island is.

WASHINGTON RECREATION & PARK ASSOCIATION GRANT: Recreation Division Director Mark Benishek said Active Adult Program Manager Sue Barrington took the lead in writing the Summer Experiences and Enrichment for Kids Fund grant request from the Washington Recreation & Park Association. The reimbursement grant was approved for \$131,120 for part-time staff for outdoor summer programming in July and August as well as supplies, equipment, and financial scholarships. The grant includes \$6,200 for equipment to help people with physical disabilities get access to paddling program equipment. This has been a challenging year dealing with the coronavirus pandemic and the grant will be a big help. **MSC: Glosser/Swolgaard: Accept the WRPA SEEK Grant for \$131,120.**

DIRECTOR'S REPORT

Park Services Division: Park Services Division Director Dan Hamlin said work on the KidsUp! Playground renovation is still on target for the September 4 opening event. There is a Trails Advisory Committee meeting Monday and a Dog Advisory Committee meeting on Tuesday. The trails crew has been working to clear for a fence along the trail connection between the Park District's easement on the City of Bainbridge Island's property on Vincent Road and Vincent Road as well as on the trail reroute around the Kitsap Public Utility District's easement in Gazzam Lake Nature Preserve. Student Conservation Corps is being relaunched this year and will be starting work at Blakely Harbor Park on Monday. Senior Planner Perry Barrett said Port Blakely Tree Farm is starting their sampling effort at the end of August at Blakely Harbor Park in accordance with their agreed order with the state. This afternoon confirmation of a meeting was received regarding permitting with the City for Williams-Olson Park. The protective wall on the superfund portion of the Pritchard Park site is being changed out, that portion of the site is not owned by the Park District.

Administrative Division: Administrative Division Director Amy Swenson said work is being done on the 2021 amended budget, including budgeting for the Bainbridge Island Recreation Center. Park District staff is looking forward to onboarding Bainbridge Athletic Club employees.

Recreation Division: Recreation Division Director Mark Benishek said Community Outreach Coordinator Emily Swift held the first Sounds of Summer concert since the summer of 2019 and the community turned out in record numbers. Puget Sound Energy will sponsor both Haunted Hayride and Holiday at Fay this year. Emily Swift and Marketing Coordinator Allie Smith hired Angie Bickerton as the new Special Events Assistant. Allie Smith wrapped up work on the fall program catalog and has been working on marketing materials for Bainbridge Island Recreation Center. Active Adult Program Manager Sue Barrington is launching some new programs this fall including historical speakers. Aquatic Center staff has extended offers to applicants for the open Head Guard and Aquatic Program Coordinator positions. The search for a new Bainbridge Island Swim Club Head Coach had to be relaunched. The Ray Williamson pool is closed so staff can clean the liner. Recreation Superintendent Bryan Garoutte said that next week Bainbridge Athletic Club employees will be hired by the Park District and staff is excited to have them onboard. Outdoor Program Manager Nick Prevo administered 16 camps this week. Today was the last day of the last Kindergym Camp of the summer. Sports Program Manager Julie Miller has launched some social tennis opportunities which have been successful. Bainbridge Athletic Club's Tennis Director Dayna Guizzetti has accepted a position at BIRC.

UPCOMING MEETINGS & EVENTS:

Commissioner Kinney inquired about if the Park District will be transitioning back to in-person board meetings. Executive Director Terry Lande said staff is waiting to see what if any action is taken by Governor Inslee regarding the prominence of the coronavirus delta variant. Commissioner Kinney said he thinks that when the Park District does go back to in-person board meetings they should be a hybrid of in-person and Zoom.

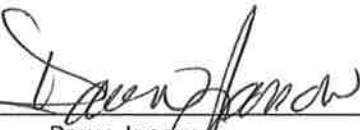
BOARD MEMBER ITEMS:

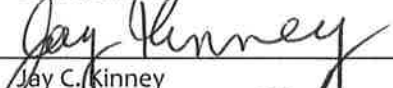
- Commissioner Janow said the Park District's fall program guide, the Recreation Connection, is a testament to the Park District's diverse programming and thanked staff.
- Commissioner Janow said the Park District's levy lid lift passed in Tuesday's election. Votes are still coming in, but as of tonight the levy lid lift is passing at 66.5% which is phenomenal. She thanked everyone who helped on the campaign and donated money. The passing of the levy lid lift is a tremendous testament to Executive Director Terry Lande and his staff and the work they do. She is excited for what the additional funding will mean for the Park District and island residents for the next 10-15 years.
- Commissioner Swolgaard thanked Commissioner Janow for her efforts on the successful levy lid lift campaign.
- Commissioner DeWitt said he went to the Bainbridge Island Parks Foundation board meeting Tuesday night.
- Commissioner DeWitt said the levy lid lift vote this week affirmed how important the Park District is to the island and how supportive the community is. The Park District would not be where it is without the generosity of a lot of people on the island. He listed examples of parks and amenities that have been enabled by donations from community members either in whole or in part and that highlight the generous spirit of the island such as: property additions to Ted Olson Nature Preserve, Moritani Preserve, the property addition to Strawberry Hill Park, the skatepark at Strawberry Hill Park, the original KidsUp! Playground as well as the current renovation, the artificial turf fields at Battle Point Park, Owen's Playground, the baseball fields at Rotary Park, Hidden Cove Ballfields and at Sands Field, and the rebuilding of the cabin at Camp Yeomalt. The Park District could not do everything it does without key partners such as the Bainbridge Island Parks Foundation and the Bainbridge Island Land Trust as well as various other organizations.
- Commissioner Glosser thanked fellow board members and Park District staff for their time spent in acclimating him to the Park District during an incredibly busy time.
- Commissioner Glosser said he wanted to echo the comments made by Commissioner Janow and Commissioner DeWitt regarding the passing of the levy lid lift. The levy lid lift is an easy product to sell, which is what made so many people vote yes, but it's a lot of work to make the parks and services what they are.
- Commissioner Glosser said he attended the Bainbridge Island Parks Foundation meeting along with Commissioner DeWitt. The dam failure at the Battle Point Park pond was discussed. He thinks there are a lot of people invested in the pond and that communicating to the public what is happening and how complex it is would be beneficial.
- Commissioner Glosser said he has been thinking a lot about the current state of the world and his optimism about the COVID-19 pandemic is waning and its repercussions are at the top of his mind.
- Commissioner Swolgaard said it was great to meet Commissioner Glosser in person on Tuesday night.
- Commissioner Swolgaard asked how the design for the mountain bike trails on the donated property next to Strawberry Hill Park is going. Park Services Division Director Dan Hamlin said he met with David Maron and John Benjes and pulled some sample requests for proposals in preparation for putting a request out for a firm to assist with the design.
- Commissioner Swolgaard said he went on a cross-island hike with over 40 members of his family.

- Commissioner Kinney said that a lot of work has been done this summer by staff. However, he must hand it to Executive Director Terry Lande for the amount of grief he has put up with in acquiring the Bainbridge Island Recreation Center and said that he deserves more vacation time in his compensation package to keep him around.
- Commissioner Kinney gave kudos to Commissioner Janow for her work on the successful levy lid lift campaign.

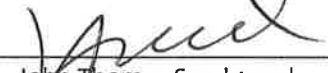
MEETING ADJOURNED at 7:24 pm.

Helen M. Stone
Terry M. Lande
BAINBRIDGE ISLAND METROPOLITAN
PARK & RECREATION DISTRICT

BY: 
Dawn Janow

BY: 
Jay C. Kinney

BY: 
Kenneth R. DeWitt

BY: 
John Thomas Swolgaard

ATTEST: 
Asaph Glosser