



OFFICE OF THE CITY ATTORNEY



To: Commissioner John Fierro, President
Commissioner Tyrone Aiken
Commissioner Frances Semler
Commissioner Aggie Stackhaus
Commissioner Ajamu Webster
From: William D. Geary, Assistant City Attorney
Subject: Dog Park Regulations / Threatened Litigation
Date: September 12, 2007

This memorandum is confidential attorney-client correspondence.

Each of you has received a copy of a letter from an attorney representing several people interested in the Board's decision on dog parks. The attorney, Arthur Benson, has threatened litigation.

It is not my intention to weigh each allegation made by Mr. Benson. Some are clearly based on supposition and some are based on mistaken facts. However, this letter constitutes my legal advice to you describing my recommendation for actions that may avoid the distraction of litigation.

Mr. Benson states a lawsuit will not be filed if the Board:

- (1) Rescinds the resolution on dog parks adopted on August 28, 2007;
- (2) Schedules a public meeting with at least two weeks notice on the issue;
- (3) Holds the public meeting at a forum large enough to accommodate the expected large number of citizens who likely would attend; and,
- (4) Allow all members of the public who wish to speak on the issue to be heard at the meeting before the Board takes any action on the dog park resolution.

I recommend the Board continue with its intended task force and proceed to establish that advisory body so it may promptly begin its work. After appointment of the task force a joint meeting of the Board and the task force for the sole purpose of hearing comments on dog parks should be held. Even without Mr. Benson's demand that the meeting be held in a large room the Sunshine Law requires that

each meeting shall be held at a place reasonably accessible to the public and of sufficient size to accommodate the anticipated attendance by members of the public, and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impractical.

PUBLIC
FROM
WHO

MANIPULATION

DO NOT IMPLEMENT THE RESOLUTION

CONFIDENTIAL

After the joint public hearing I recommend postponing any decision on any dog park issue until the task force completes its report to you. At that time you may choose to hold another hearing or may choose to proceed with your public deliberations.

OTHER

Mr. Benson demands that any person who wishes to talk be given the opportunity to talk. That means the length of the public hearing is contingent upon the desire of people to speak and repeat comments previously made.

I recommend you announce that the public hearing will be a specific period of time sufficient for all sides to testify, but that comments will be limited in time so the maximum number of people is given the opportunity to speak. It would be reasonable to state that the group of neighbors opposing the dog park in Sunnyside Park and representatives of WOOF be given a longer period of time to present a coherent position statement. I believe it appropriate to accept written statements into your public record. This could be done through a special e-mail address (e.g., dogparks@kcmo.org) and by written documents. The positions could then be summarized for use by the Board.

I also recommend the staff make an initial presentation that summarizes the staff work done on this issue. I recommend the staff report be limited to factual matters and not present any staff recommendation.

6000

I do not recommend you rescind the resolution you adopted. However, I recommend making a public record that the Board will not make any decisions approving or denying a dog park until it has made a decision whether to repeal or amend the resolution. This in effect suspends the resolution. I recommend the Director be asked to affirm the intent of the Board that the staff will not approve or deny any dog park until the task force completes its work and the Board reconsiders the resolution.

held in ABATANCE
NO ACTION

In summary, it is my recommendation that you suspend operation of the resolution, continue with the appointment of the task force, conduct a joint public meeting with the task force of sufficient length to allow people to speak on the issue, receive the task force's recommendations, and then reconsider whether the resolution should be repealed, amended, or put into effect.

Implementation

NO MORE PARKS UNTIL RAYBURN RD.

There is still the issue of the Board's practice to allow the public to make statements at the beginning of every Board meeting. Undoubtedly people will want to make statements about dog parks during the period of time the task force is working and you are reconsidering the resolution. I believe the government is not required to allow a free-for-all at its meetings. By establishing the dog park task force and setting up a public hearing you are giving the public the opportunity for comment. Restricting public comment by topic or time is, in my opinion, lawful.

At the September 18 Board meeting surely people will want to speak to the dog park issue and possibly the Board's procedures. This is particularly so since the meeting will be televised. I recommend setting aside a specific period of time for public comments and allow the venting at this meeting. This may discourage further threats of litigation.

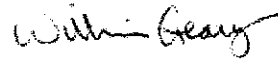
How LONG STAY

Board of Parks and Recreation Commissioners
September 12, 2007
Page 3

CONFIDENTIAL

I have asked for a closed session to discuss the details of my recommendation before your regular meeting on September 18. I will be available to explain my recommendations in more detail if you wish, and to answer questions about the threatened litigation and the surrounding legal issues.

Sincerely,



William Geary
Assistant City Attorney

cc: Mark McHenry, Director, Parks and Recreation
Galen Beaufort, City Attorney

Back BY THE
20th



Heidi Downer/pr/kcmo
08/31/2007 02:17 PM

To Steve Lampone/pr/kcmo, Mark McHenry/pr/kcmo@kcmo,
jfierro@mattierhodes.org
cc
bcc
Subject DRAFT: News Release

Please review.

FOR IMMEDIATE RELEASE: August 31, 2007

Park Board Creates Dog Park Task Force

Citizens will help develop a system-wide masterplan for dog parks

The Kansas City, Missouri Board of Parks and Recreation Commissioners supports the development of off-leash dog areas in parks and, as recommended at a recent Board meeting, is creating a citizen task force to gather public input and advice for use in the development of a system-wide masterplan for dog parks in Kansas City, Missouri.

"We recognize that many citizens want to have off-leash areas near their communities and are willing to help us identify the right locations and sizes needed for quality dog parks in our City," said Board President John Fierro. "We are seeking 10 to 15 members who are interested in off-leash areas for dogs and who have a variety of viewpoints about park uses."

The timeline includes identifying members and scheduling the first meeting by October 1; and for the task force to provide recommendations to the Park Board by the end of the year.

Department staff will be contacting community groups to identify persons who are passionate about Kansas City's parks and want to be a member of the task force. Persons who wish to be considered for membership on the task force can call 816/513-75?? or email

Name_name@kcmo.org. Please include name, address, zip code, day and evening phone numbers and email address.

Heidi Downer
Kansas City Parks and Recreation Department
4600 East 63rd Street
Kansas City, MO 64130
816/513-7527
heidi_downer@kcmo.org