

ROCK ISLAND COUNTY FOREST PRESERVE COMMISSION
FEBRUARY 21, 2017 – 5:56 PM
PRESIDENT KAI SWANSON PRESIDING

1. Karen Kinney, County Clerk, called the roll: (Record)

R. Brunk, L. Burns, K. Callaway-Thompson, N. Camlin, D. Cremeens, J. Deppe, D. Johnston, E. Langdon, K. Maranda, M. Mayberry, D. Mielke, L. Moreno, R. Morthland, S. Noyd, C. O'Brien, R. Oelke, R. Reagan, V. Shelton, R. Simmer, S. Terry, B. Vyncke, J.R. Westpfahl, K. Swanson

TOTAL PRESENT 23

P. Moreno, Steffen

TOTAL ABSENT 2

2. Commissioner Simmer moved to approve the January Commission minutes. Commissioner Mayberry and Cremeens seconded.

A voice vote was taken.

Motion carried.

3. **PUBLIC COMMENTS: (None)**

4. Commissioner O'Brien moved to approve the Forest Preserve Fund claims at \$23,764.08, and the Niabi Zoo Fund claims at \$57,279.53, the Liability Fund claims at \$944.41. Commissioner L. Moreno seconded.

A roll call vote was taken.

R. Brunk, L. Burns, K. Callaway-Thompson, N. Camlin, D. Cremeens, J. Deppe, D. Johnston, E. Langdon, K. Maranda, M. Mayberry, D. Mielke, L. Moreno, R. Morthland, S. Noyd, C. O'Brien, R. Oelke, R. Reagan, V. Shelton, R. Simmer, S. Terry, B. Vyncke, J.R. Westpfahl

TOTAL YES 22

TOTAL NO 0

Motion carried.

5. Commissioner Brunk moved to approve the Treasurer's Disbursements at \$37,522.93. Commissioner Vyncke seconded.

A roll call vote was taken.

R. Brunk, L. Burns, K. Callaway-Thompson, N. Camlin, D. Cremeens, J. Deppe, E. Langdon, K. Maranda, M. Mayberry, D. Mielke, L. Moreno, R. Morthland, S. Noyd, C. O'Brien, R. Oelke, R. Reagan, V. Shelton, R. Simmer, S. Terry, B. Vyncke, J.R. Westpfahl

TOTAL YES 21

TOTAL NO 0

Motion carried:

6. Commissioner Langdon moved to waive the reading and approve the Transfers of Appropriation in the Forest Preserve General Fund. Commissioner Callaway-Thompson seconded.

A roll call vote was taken.

R. Brunk, L. Burns, K. Callaway-Thompson, N. Camlin, D. Cremeens, J. Deppe, D. Johnston, E. Langdon, K. Maranda, M. Mayberry, D. Mielke, L. Moreno, R. Morthland, S. Noyd, C. O'Brien, R. Oelke, R. Reagan, V. Shelton, R. Simmer, S. Terry, B. Vyncke, J.R. Westpfahl

TOTAL YES 22

TOTAL NO 0

Motion carried.

7. Commissioner Deppe moved to approve for services from Carpentier, Mitchell & Goddard, Inc., for the District's Comprehensive Annual Financial Report for fiscal years 2017, 2018 and 2019. Commissioner Vyncke seconded.

Commissioner Terry was recognized.

Mr. Terry asked, "Mr. President, Do we know who has handled this in the last year or two?"

President Swanson answered, "Yes, this is the same company that we have used for the last couple of years. We are still in the window of sound auditing practices of when you want to rotate. So, this is the firm that has done it most recently for us."

Mr. Terry interrupted, "I am sorry, the second part of my question is...Do we do three fiscal years like this?"

President Swanson answered, "Well, Yes. I am seeing from Ms. Palmer...than you, that this is a three-year contract that we do."

A roll call vote was taken.

R. Brunk, L. Burns, K. Callaway-Thompson, N. Camlin, D. Cremeens, J. Deppe, D. Johnston, E. Langdon, K. Maranda, M. Mayberry, D. Mielke, L. Moreno, R. Morthland, S. Noyd, C. O'Brien, R. Oelke, R. Reagan, V. Shelton, R. Simmer, S. Terry, B. Vyncke, J.R. Westpfahl

TOTAL YES 22

TOTAL NO 0

Motion carried.

8. Commissioner Simmer moved to approve the Niabi Zoo operating schedule for calendar year 2017. Commissioner Callaway-Thompson and Cremeens seconded.

A voice vote was taken.

Motion carried.

9. Commissioner Simmer moved approve the Code of Conduct/Ethics & Commissioner Creed, as presented. Commissioner L. Moreno seconded.

President Swanson stated, "This is a revisiting item we had last month, a motion to approve the Code of Conduct/Ethics & Commissioner Creed...just a quick update before I ask for a motion to that effect, there was some very good concerns that the language was boiler plated from the Illinois Association of Park Districts. So, we went through with the District staff to make sure that adequately represented Elected Commissioners in a District and a District Director rather than a Superintendent. So with that as background, do we have a motion to adopt? Dr. Simmer moved and seconded by L. Moreno."

Commissioner Mayberry was recognized.

Ms. Mayberry asked, "Thank you Mr. President. On the first page under Board Member or Commissioner Creed, the 6th bullet point, 'remain politically non-partisan on commission issues' ... I'm just wondering how that works as far when we are a partisan Board?"

President Swanson answered, "Right. Okay, it's a very good question. This is an aspirational document. So, basically what the tenants of good governance indicates is that when you are in the delivery of body, your duty of loyalty is to the well-being of the organization. So, that should supersede, ideally, any

parochial interests. And, the definition would be that partisan is a parochial interest. Now, we are all humans and no one is expected to be perfect, and it would be good uses of partisanship to have parties inform their members on their stances on a particular positions. But, this is speaking to a governance issue that at the moment of making a decision, you should be driven primarily by your desire to serve the best interest of the organization. Does that help to address it? And, again, you will all note...there is no enforcement policy here, this is an aspirational document that we are holding up as an example for how we would like to behave. Does that answer your question?"

Ms. Mayberry answered; "It does, but I just have one more question... On the second page under Code of Conduct, the first bullet point there, 'when outside of commission meetings, when making individual pronouncements in public conjectures about agency matters where it is not decided by the Board'...can you tell me what that entails? Does that preclude talking to the press, talking to constituents, talking to other board members or other members?"

President Swanson answered, "Right. No. An individual pronouncement of public conjecture would be...'I think it's going to go this way'...and that's being inauthentic to the delivery process. You can express an opinion at any time, and that's not what an individual pronouncement entails. You can express concern...you can express opposition or support. But to say, 'this is gonna pass' or 'I am sure this is gonna fail' is not being authentic to the delivery process. Does that help to answer that question?"

Ms. Mayberry answered, "Yes. Thanks."

President Swanson stated, "Thank you very much."

Commissioner Johnston was recognized.

Mr. Johnston asked, "I have some concerns, quite frankly, over all of it last month. This is a document that you revised a little bit. All you really did from the original is cut and paste job of the agency document and changed boards to commissions and on down the line like that. It still implies that, as my colleague over there said, you shouldn't be in disagreement with what was the Executive Board of Director a non-elected individual that seems to have a lot of responsibility. I agree that they do, but this just...this looks like something that belongs to the boys and girls club rather than an elected body. What you will find is that this Creed is around State for commissions that aren't tied up in county board...this is an elected body. And, you have procedures and policies that already covered...as well as the Illinois Statutes. What this is...this is for non-partisan...I am especially alarmed at that because this sneaks in for this or that because we are partisan. If you don't like that, then take the Commission away from the County Board. Make it a separate entity. Make it to how many people

you want and change it that way. But, this is not the way to go and I can't vote for it."

President Swanson stated, "I appreciate that."

Commissioner Terry was recognized.

- 9a. Mr. Terry stated, "Mr. President, I guess I just want to be on the record saying that I fully intend to support the measure, but I would like to propose an amendment to the language striking under Commissioner Creed, 6th bullet point, 'remain politically non-partisan on commission issues'...I would like to strike that one as well as two paragraphs down the last bullet point, 'consider unethical and secret sessions of board meetings held without the presence of the executive as well as any meeting which violates the open meeting act'. I think that's probably inherent with the Open Meetings Act. Obviously, there are some concerns with that."

President Swanson stated, "We have a motion...do we have a second? Commissioner Vyncke seconded. Are we clear on the two amendments to be struck? Is there any further discussion on those?"

Commissioner Johnston stated, "What are we voting on?"

President Swanson stated, "This is a motion to strike the two named bullet points...specifically, under the first heading of Commission Creed, 'remain politically non-partisan on commission issues' and then second, under the third grouping, 'consider unethical and thus avoid secret sessions of board meetings held without the presence of the executive as well as any meeting which violates the Open Meeting Act'."

Commissioner Moreno was recognized.

Mr. Moreno asked, "Is it possible to vote for them separately?"

- 9b. Mr. Terry stated, "I proposed the amendment and I am fine with that. Mr. Simmer seconded."

President Swanson stated, "Okay, thank you for that, Mr. Simmer. We will take them one at a time."

Commissioner Simmer was recognized.

Mr. Simmer stated, "I just want to reiterate what Kai said that this is an advisory document, there isn't anything set in stone and you won't have your fingers broke if you don't pay attention to this. It is just a good way to conduct

ourselves. To take it so seriously as to strike it...we should always be thinking about the greater good over the party or our own self interests. I like this just the way it is."

President Swanson stated, "Thank you."

Ms. O'Brien stated, "Mr. President... Uh, I don't think my speaker is on..."

Ms. Kinney answered, "It's on."

Ms. O'Brien stated, "I remember a discussion about the word 'secret' in the Open Meetings Act and it is kind of redundant...if you look at the first mention of the secret meetings refrain from those that commit code violations...that's actually address on the 3rd page, under number 15. So, it's kind of redundant to have it on the first page and the last page anyway...so, I agree with taking it out of the first page because it just seems..."

President Swanson interrupted, "Well that's not... Yes, that sounds like if you mention the first piece. May I entertain that as a question because that was raised before? The difference here is that has to do with a governance best practice. Secret sessions entail having the board get together without the knowledge of the professional administrator. And, to that point, I would offer an observation from the Northern Regional Park Association governance committee, which notes that: 'A governing board hires the executive director or CEO and it is that person's job to manage the organization under the strategic policy set by the board. Board Members can actually follow the law and even negate their liability insurance and officers policies if the actions of the members are outside the proper stow of government. So, the Open Meetings Act is a given. That is a statement that is necessary...,but secret sessions are a good governance practice that if they were circumvented, could put the action or committee member at risk for lawsuits under the liability insurance."

Mr. Terry stated, "Point of order, Mr. President. Under the original proposed creed, 'secret' is already struck."

President Swanson stated, "I am just arguing the last comment."

Ms. O'Brien stated, "I was just stating that if you are going to have a meeting with another board member and you didn't plan it in advance, and have a discussion with one board member, you are not violating the Open Meetings Act. That's not really a secret meeting."

President Swanson answered, "Right."

Ms. O'Brien added, "So, I guess I still don't see a need to have that piece in there. That is my thought."

President Swanson stated, "Understood. Right now, we have broken this in two. The first one, now...we are discussing it. Is there any further discussion on striking the line under the... Ms. Mayberry."

Ms. Mayberry stated, "I don't have a comment on that, I just have another comment."

President Swanson stated, "Okay, hang on...do you have a question, Mr. Johnston?"

Mr. Johnston stated, "I have a comment."

President Swanson stated, "Okay. Ms. Mayberry, please."

Ms. Mayberry stated, "The individual who created this, the draft of this...did they think about modeling this after the Code of Conduct we have with the county because this seems pretty different?"

President Swanson stated, "Well..."

Ms. Mayberry added, "...which doesn't have to be the same, but I just wondered."

President Swanson answered, "It is a very good question and I happen to be the individual. When we had initially proposed the Code of Conduct for the Forest Preserve District...that was almost exactly word for word of the county's but that was never entertained formally. This happened to be some great bird-dogging by our District Director, that a group that we are specifically a part of, The Illinois Association of Park Districts, recommends this language. So, it's a little bit more germane to the operation of the Forest Preserve District. But, that's an excellent question and I thank you for it."

Ms. Mayberry stated, "So, that's where some of this language came from?"

President Swanson answered, "Virtually all of it except as was noted, taking out the language that was about a Park Board or a Supervisor...that kind of thing to Commissioner and District Director rather than a Park Superintendent."

Ms. Mayberry asked, "So, is this used in other Forest Preserves in the county...this language...or not the county but the State?"

President Swanson answered, "The State of Illinois? Yes, it does...this is the language of the State of Illinois Association of Park Districts."

Commissioner Johnston was recognized.

Mr. Johnston stated, "Yeah, why would you continue with this? Obviously, this is a very poorly written and copied document. It doesn't apply to an elected body, as this commission is. You know...this is something that you keep mentioning the Parks of Illinois and I am sure most of that board is in conjunction with the county board and at the least we should vote this thing down or come back with some better language. This is just scribbling...crossing stuff out and putting stuff back in."

President Swanson stated, "No, actually if I may... just a point of information, you are looking at a red-lined document?"

Mr. Johnston answered, "Yes, I am."

President Swanson stated, "You were also sent the actual document. This is what the final thing looks like. (Holds up the document) That was simply to give you some background so that you could see specifically what was changed. That is not the official document...that's a red-lined document, this is the official document."

Mr. Johnston stated, "The red-lined document shows what was taken out in conjunction with the last month. I have the other one right here."

President Swanson stated, "This was sent to you five days ago...and to all Members of the Commission. And, I am sorry...but claiming that you didn't have the information that was sent five days ago, is not an adequate defense. I appreciate your..."

Mr. Johnston interrupted, "I didn't claim that...I didn't claim that at all..."

President Swanson continued, "...and I would offer one in return...that we have done in this county is to operate as free agents. And, that has gotten us in some trouble over a time. And, this is a document that is accepted in counties and Forest Preserve districts and Park Districts across the state, where we say, 'set aside free-styling and free-lancing' and let's just try to do it with the best practices. I know there are those who don't like 'best practices', but I tend to find that they are worthy investments."

Board Member Terry was recognized.

Mr. Johnston stated, "Oh, I wasn't finished, Mr. President!"

President Swanson stated, "Oh, I am sorry."

Mr. Johnston stated, "The term was used to me, if I remember. The term 'best practices' and 'moving forward' seems to be frowned on by some people in this body. Just because it's being used, doesn't carry much weight when it comes to getting things done. And this document, well...the one you are showing me...or this one (holds it up) in its entirety...the one you are showing me, still has those same problems that I think belong in an agency and don't belong in an elected body and consequently, I think it should at the least voted down."

President Swanson stated, "I appreciate it. I apologize, I didn't mean a point of information...you were referring to the red-lined document, which was simply a learning resource for the board members, that's the commissioners, that's all. Do we have any other questions on the first motion?"

Ms. Mayberry stated, "Just a comment?"

President Swanson stated, "Please."

Ms. Mayberry asked, "Has this been ran by the State's Attorney's Office or was?"

President Swanson stated, "I think we... The language that's in here...there is nothing that circumscribes any statement."

Mr. Craver stated, "They were given the copy and they are still reviewing it. They have a heavy case load at this point in time. Again, part of what we are wanting by the Illinois Association of Park Districts is they do have a legal counsel. They do advise and make us aware of current legislation, pending legislation and approved legislation. They send those things out and they have a legal symposium that Park Districts and Special Recreation Associations, City Councils...our attorneys are welcome to attend to review all of that legislation and how it impacts agencies throughout the state. So, while it hasn't been thoroughly vetted through our attorneys, it's been vetted through the Association we use for their legal counsel."

President Swanson stated, "Thank you, Mr. Craver. Mr. Maranda and Mr. Terry...and then Mr. Brunk."

Commissioner Maranda stated, "Thank you, Mr. President. I guess with that last comment, and I know we have two motions on the floor...but my motion is if we don't have the State's Attorney...like you said, if it's under review from them they still got that...should we wait until they respond?"

President Swanson stated, "It's undergone legal review."

Mr. Maranda stated, "But, it's not done."

President Swanson stated, "We may have a motion to delay...but right now, we have a motion on the floor."

Mr. Maranda stated, "That's why I didn't want to override the two motions of Luis and Scott...so, my motion would be to..."

President Swanson stated, "We are going to hold off on that, if we could."

Mr. Maranda stated, "Yeah. Right. We already have the two motions."

President Swanson stated, "If we could just for the good order of the meeting?"

Mr. Maranda answered, "Absolutely."

Commissioner Brunk was recognized.

Mr. Brunk stated, "I was just going to say, I understand what Mr. Craver was saying that the organization legal counsel has reviewed it...but I guess the question has come up as Mr. Johnston has said how the different park districts and forest preserve districts in the state are structured, whether or not the Forest Preserve District of Rock Island County's structure may impact or a variance of that legal review where the organization is at versus somebody from our legal staff that might have a question or two."

President Swanson stated, "I appreciate your comments but as Mr. Craver indicated they are under a very heavy case load. If you read the document, you will see there is nothing in it that counterveines as Mr. Moreno said, the Open Meetings Act or anything there pertaining to it."

Mr. Terry stated, "I just want to thank Mr. McGehee and the State's Attorney's Office. We all know their work load is very heavy and I just want to interject some realism here. It's a Creed folks. And, if we think that we should be concerned with the legality of declaring as a body and that we are going to respect the opinions and decisions of our fellow commissioners, we need to do something and hire some more attorneys. Because this is just...let's just all take a breath and realize what we are voting on...it's a creed. If you don't think that a creed is necessary, vote no. I call the question."

9b.1 President Swanson stated, "Alright, the question has been called. I hear no eviction...and here, again, specifically this is about striking the language on the first of the two...main bullets specifically, 'remain politically non-partisan on commission issues'. All those in favor of striking, please say Aye."

A voice vote was taken.

Mr. Simmer and L. Moreno vote no.

Motion carried.

Ms. Winstead stated, "We need the names of the Nays, please."

Ms. Kinney affirmed, "Yes, we need the names of the nays. Who were the Nays? Will the Nays please raise their hands. Mr. Simmer and Mr. L. Moreno."

President Swanson added, "Unless a division of the house is called for by the body, you don't have to record the names, unless you would like it in the house? I don't think it needs to be recorded, but thank you very much for your diligence. I appreciate that."

- 9b.2 President Swanson stated, "Now, we do have a second motion thanks to the division of the two. So, let's go ahead and drop that and we will move on. So, it's been moved and seconded to strike this language, 'consider unethical and thus avoid secret sessions of board meetings held without the presence of the executive as well as any meeting which violates the Open Meeting Act'. Do we have any further discussion on that particular language?"

A voice vote was taken.

L. Moreno and Simmer vote no.

Motion carried.

- 9b.3 President Swanson stated, "We are now back to the original motion with the amendments just approved to strike."

Commissioner Maranda was recognized.

Mr. Maranda stated, "I don't have too much of a problem, but I don't want to overstep the State's Attorney."

President Swanson asked, "May I ask the State's Attorney if he takes offense if we are voting on this tonight?"

John McGehee, State's Attorney answered, "No. It's up to you. It's like Scott said, it's a creed and I know my office hasn't offered an opinion as it relates to it, but that's up to the body what you do."

Commissioner Brunk was recognized.

Mr. Brunk stated, "I would like to point out that it is a creed that will be used by this President and it is a document that will shape and direct the way we govern and serve the people that elected us. So, while some may view it as a piece of paper, the fact of the matter is...it is a piece of paper this is supposed to be guiding us on how we are to do our jobs. Can we ask Mr. McGehee...I guess it is up to the Board, but I feel...because of your work load, if it takes three months to review it, so be it. You know...I just feel there is too much stuff that needs to be...in my place and my time on the Board, there has been so much of the 'let's just do this' and again...this is a template for how we are supposed to conduct ourselves here and I don't take that lightly."

Commissioner Maranda stated, "I am going to put it on the floor for a vote. So, let's move ahead with it."

Mr. Terry stated, "I second the previous question."

President Swanson stated, "We have a second and the previous question has been called...so, what we are doing is we are basically going to state up or down...yes or no on this."

Mr. Terry stated, "This is just to close the debate."

President Swanson stated, "Yes, I am sorry...we are closing debate on the Motion by Maranda and seconded by Mr. Terry. So, if you support in closing debate and calling the question..."

Mr. Terry added, "Once you close the debate, you will need to call the original creed with these amendments."

President Swanson stated, "Yes, Mr. Terry...I saw that you have your Roberts Rules of Order with you. So, now we are going to close debate."

A voice vote was taken.

Motion carried. Debate is closed.

9b.4 President Swanson stated, "Now, debate is close and we have a previous motion to call the original question with the amendments."

Mr. Terry stated, "We need to pass the Creed, as amended."

President Swanson stated, "I need to get this right. I need to pass the Creed as amended, motion by..."

Mr. Terry added, "You already did that...you don't need another motion. That's the affirmative."

President Swanson stated, "Where would I be without you, Mr. Terry?"

Mr. Terry added, "You just have to call the question."

President Swanson stated, "Okay, so on the main motion, as amended with the two strikes...all those in favor, please signify by saying Aye."

A voice vote was taken.

A division of the house...

Ms. Kinney stated, "It's up there...just use that one."

President Swanson added, "Oh, thank you, Clerk Kinney."

A roll call vote was taken.

K. Callaway-Thompson, N. Camlin, K. Maranda, L. Moreno, R. Oelke, R. Simmer, S. Terry, B. Vyncke

TOTAL YES 8

R. Brunk, L. Burns, D. Cremeens, D. Johnston, E. Langdon, M. Mayberry, D. Mielke, R. Morthland, S. Noyd, C. O'Brien, R. Reagan, V. Shelton, J.R. Westpfahl

TOTAL NO 13

Motion failed.

Commissioner Brunk stated, "I would like to go back to this motion regarding the Creed of Conduct and ask to refer this to the State's Attorney's Office for review."

Commissioner Mielke seconded.

A voice vote was taken.

Motion carried.

Mr. McGehee stated, "I accept."

Commissioner Simmer was recognized.

Mr. Simmer stated, "I want to make a comment. I find it to be a bunch of chicken crap that these guys want to send this to the State's Attorney."

President Swanson interrupted, "I am going to ask that you refrain from such language."

Mr. Simmer added, "Okay. So, I find it very miserable that you guys find it necessary to go to him. I think he is very busy...he's a man that has stuff to do and is very professional at what he does. I think that Jeff has had the due diligence on this on effective attorneys that do this every day of their live and have a lot more experience than our good State's Attorney's Office in this category. Pushing this off...is something that's a Creed. It is nothing too crazy or out of line and you vote a lot more crazier stuff through here and never talk about it more than two minutes. I think this is a great thing and I just think it's a..."

President Swanson interrupted, "Actually, if I could...I think it is time to move on with the meeting, but thank you, Dr. Simmer."

Mr. Johnston stated, "I would just like to point out that if this Creed would have passed, one of the things that is in it is not to criticize what the commission does and so, you wouldn't have been able to make those comments."

Mr. Simmer stated, "You can individually criticize."

President Swanson added, "This has no infringement of freedom of speech and it's a best practice to accept the rule of the majority. That's what I think it says."

Mr. Morthland stated, "I just wanted to say that when I was in Springfield, I worked with these people, and it's a good organization. I just wanted to make that comment."

Ms. Callaway-Thompson stated, "There is a motion and a second to move the Creed to the State's Attorney's Office."

President Swanson stated, "We will call it a memorial to have the State's Attorney review it and return with an opinion."

Mr. Brunk stated, "We are just asking him to continue the review. It's that simple."

A voice vote was taken.

Motion carried.

10. Commissioner Maranda moved to approve all the Routine Reports from the Director and Department Heads of the Forest Preserve Commission. Commissioner O'Brien seconded. (Record)

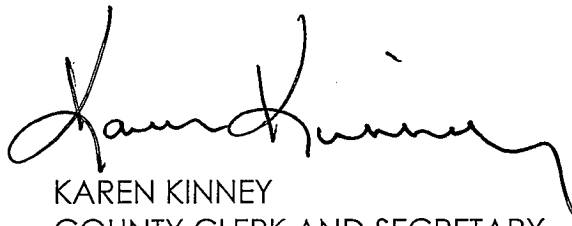
A voice vote was taken.

Motion carried.

The next meeting of the Forest Preserve Commission is March 21, 2017, immediately following the meeting of the Rock Island County Board.

President Swanson declared the Forest Preserve Meeting recessed.

RESPECTFULLY SUBMITTED,

A handwritten signature in black ink, appearing to read "Karen Kinney", written in a cursive style.

KAREN KINNEY
COUNTY CLERK AND SECRETARY
OF THE FOREST PRESERVE COMMISSION

KK: rw