

## NIABI ZOO OVERSIGHT COMMITTEE MINUTES FROM FEBRUARY 4, 2016

**PRESENT:** Committee members . T. Brahm, M. Byrne, J. Craver, T. Jarrett, J. Taylor.

**ABSENT:**

**ALSO PRESENT:** Dan Meates, Interim Zoo Director; Catherine Grace, Schultz & Williams(via phone); Rick Biddle, Schultz & Williams(via phone); three members of zoo keeper staff; Scott Lohman.

Chairman Taylor called the meeting of the Niabi Zoo Committee to order at 5:04 PM on Thursday, February 4, 2016, in the Conference Room of the Quad Cities Convention and Visitors Bureau in Moline, Illinois.

Chairman Taylor called the meeting to order, and asked Mr. Craver to speak on the various drafts and the opinion from the Civil Division.

Mr. Craver stated that there were a few grammar changes that were made, but the intent of those sections are still what was agreed upon. The Civil Division recommended putting the word ~~liability~~ and the Indemnification section back into the document. As you can see in the packet tonight, the word liability is back in section one point four, and the indemnification clause is also back in. The Forest Preserve typically takes the recommendations made by the District's legal counsel to look out for the best interests of the Forest Preserve District. As Mr. Biddle has stated it is important to have an agreement in place for the Director search. The new director will need to know what the relationship is now, and the plan for the future. This process was started in December, and the District has been working with Mr. John Ferrell on this MOU. This is what we came up with. This needs to move forward, with or without these items. Are there any questions?

Chairman Taylor asked to clarify that the discussion boils down to section eleven, the Indemnification Clause. State's Attorney's Office is recommending keeping section eleven in the document, and the Society is wanting it taken out of the document.

Mr. Byrne stated that prior MOUs between the District and the Society did not include an Indemnification Provision.

Mr. Craver stated that he could not speak to the past MOUs and the advice given for them, but the opinion from the State's Attorney's Office now is to include the Indemnification Clause. The Committee should be focusing on the now.

Chairman Taylor asked Mr. Biddle if he felt the Indemnification Clause could be taken out temporarily, then put back at a later date.

Mr. Biddle stated that his opinion on the matter was that this MOU needed to be put in place as quickly as possible because of the Director search. A new director is going to be looking at what the roles and responsibilities are of the current parties. The second thing is, what is the risk of that indemnification being out from the Society's view point?

I don't know what that answer is. Mr. Byrne would probably know that information. However, this is a short term agreement because eventually the Society is going to be someone else. I don't think we should be getting caught up in this issue because this agreement is only going to be around until the transition is complete. Also, Indemnification clauses are common in agreements between governmental entities and non-profit partners.

Mr. Byrne stated that he agreed that this needed to move forward, and perhaps this is just an academic debate. The Society has liability insurance, and it would be easy to get the District added as an additional insured. I don't agree with Attorney Sweats analysis of what the additional insured clause means because those clauses are specifically designed to protect someone for someone else's negligence. The risk on the carousel is a child slipping and hurting themselves. Since the Society has insurance, they don't see that as a big deal. Mr. Byrne asked Mr. Lohman to confirm that the Society had insurance.

Mr. Lohman confirmed that the Society does have liability and property insurance coverage.

Mr. Byrne stated that the Society is there to give money to the zoo. If the District is charging the Society for indemnity, then it's only going to hurt the zoo. We could spend a lot of time debating on whether or not it should be there, but I think we need to move forward since there's insurance in place.

Chairman Taylor asked if that was meant to be a motion.

Mr. Byrne stated that the other provisions were probably fine.

Chairman Taylor stated that Mr. Craver had simply made some technical tweaks to the wording.

#### **MOTION:**

Mr. Byrne stated, "Okay. I guess I would move that we recommend approval with the caveat that we're not moving forward because of the analysis that's in Attorney Sweats memo, because I don't think it's legally accurate about the additional insured clause, and I'm glad to talk to her about that, but that ... that we're all ... the County's protected, the Society's protected by having insurance."

Chairman Taylor asked, "Is there a second to that motion?"

Mr. Brahm stated, "I'll second."

Chairman Taylor asked, "Is there further discussion?"

There was no answer from anyone in the room.

Chairman Taylor stated, "The motion on the floor then is to approve the draft Memorandum of Understanding as presented? Correct?"

Mr. Byrne answered, "Yes."

Chairman Taylor stated, "Bearing no further discussion, all in favor say 'aye'."

All members said 'aye'.

Chairman Taylor stated, "All opposed say 'no'."

No one said no.

Motion carried.

Chairman Taylor asked how many applications for the director position had been received.

Ms. Grace answered that it was about twenty-five people who has expressed interest. Not all of those have officially put in their resumes and cover letters. Between fifteen and twenty have officially put in an application. The deadline for the applications are February nineteenth. There will be two live interviews taking place tomorrow and four phone interviews. There will be an update prepared for the meeting on the sixteenth.

Chairman Taylor stated that Mr. Meates had given a tour to Deirdre Cox-Baker who is a reporter from the QC Times. Mr. Meates has more details on that.

Mr. Meates stated that the article would mainly be about the species survival plans and conservation efforts of the zoo. The article had been due to come out this Sunday, but it has been pushed back.

Chairman Taylor asked if there were any other questions or subjects that the Committee would like to discuss.

Mr. Byrne asked if there was an update on the marketing. There was supposed to be some additional information from Mindfire.

Chairman Taylor stated that the additional information has been provided to staff, and that is moving forward with the work plan.

Mr. Byrne asked if we haven't hired a marketing company yet, what does it mean that we're implementing a work plan?

Chairman Taylor explained that it was short term marketing goals for the zoo to be prepared for opening day in April.

Mr. Byrne stated that he was under the impression that a company had not been chosen yet.

Mr. Craver stated that the emails that had been sent around regarding the marketing plans seemed to have the consensus of the group to hire Mindfire, but to start with a short term marketing plan for the zoo's opening.

Mr. Brahm stated that the impression he had was that the last thing to be decided was to get more information from Mindfire.

Mr. Craver stated that the emails seemed to have consensus that the scope of service should be concentrating on the short term, and that Mindfire was the group that we wanted to go with. Mr. Biddle agreed, and he said before that the marketing is a time sensitive and important matter because the zoo will be opening in April.

Mr. Byrne stated that that was not his interpretation. Wasn't the plan supposed to be to get Mindfire to put together a short term proposal and compare that to Pear? Then look at the pricing for what Mindfire was proposing for short term, and make a final determination.

Chairman Taylor stated that Mindfire did do some recalculating and met with staff to present a short term work plan.

Mr. Jarrett asked what the price for the short term work plan was.

Chairman Taylor stated that it was between \$15,000.00 and \$20,000.00.

Mr. Byrne asked if Pear had been informed that the zoo was no longer going to use them.

Chairman Taylor stated that Mr. Craver indicated that a letter would be sent to Pear.

Mr. Meates stated that there were a few things that staff was waiting on from Pear that had been ordered prior to the end of their contract.

Mr. Byrne asked who was paying for Mindfire's services.

Mr. Craver stated that the Forest Preserve District was paying for the services.

Mr. Byrne asked to clarify that the marketing expenses were shifting over to the zoo, because in the past those expenses had been paid by the Society.

Mr. Craver stated that was correct. This is why the MOU is so important, so that these things can be clearly established. This is also why the meeting dates of the second and fourth Tuesday were chosen the way they were. It's important for us to act quickly. On the fourth Tuesday a discussion can be started and on the second Tuesday a decision can be made to move to the Forest Preserve Committee and have official action taken on it. The reason we're having this special meeting is so a decision could be made on the MOU and it could pass through the Forest Preserve Committee this month and not be kicked down the road to March. The marketing plan needed to be in place sooner

rather than later. That's why there have been emails about this, so that a plan could be in place and a recommendation made to the Forest Preserve Committee and official action taken instead of putting it off yet another month. The price that was quoted is within the policies for the staff to make recommendations. The zoo is opening in April, and the marketing plan needed a decision as soon as possible.

Chairman Taylor added that knowing what the Committee had expressed after the Mindfire presentation in January, Mindfire was told to take out the long term items and give a short term presentation for now. I allowed them to use research that was previously done on behalf of the Visitor's Bureau so that they could get a starting point to put together a short term work plan for the zoo in time for opening day.

Mr. Biddle stated that after the meeting in January we stated that we would reach out to the members of the Committee as well as the staff, and we did. It was done through email and conversations with the staff. We then wrote a memo that was circulated to everybody that laid out a course of action. Mr. Craver and Chairman Taylor stated at the meeting back in January that they would take the lead in a smaller work group instead of having everyone involved, and take appropriate steps. There is a trail of emails with consensus that Mindfire had the resources and capabilities that the zoo needed.

Mr. Byrne asked if the zoo had already entered into an agreement.

Mr. Craver stated that the agreement had been just agreed upon today, and it was for two months.

Mr. Byrne asked to clarify that Pear was still doing a few things for the zoo.

Mr. Meates stated that Pear was finishing a few jobs for the zoo that have been paid for.

Chairman Taylor stated that the agreement with Mindfire is only for two months because with the anticipation of the new director, we didn't want to get out ahead of decisions that the new director should be involved in.

Mr. Biddle stated that that was definitely a good mindset, and time until the zoo opens is growing short.

Mr. Lohman expressed his concern that Pear might disagree with Mr. Meates that all the work to finish projects is paid for. They have not been paid anything in January.

Mr. Meates stated that he had already talked to Pear. The items that the zoo was waiting on were ordered in December before the contract ran out.

Mr. Byrne asked for an update on the concessions.

Mr. Meates stated that staff is moving forward. There are a few people interested in doing the concessions at the zoo.

Mr. Craver stated that there were no responses to the RFP that was sent out, and now staff is able to solicit interested parties.

Chairman Taylor asked if the Committee had any other questions or things that they would like to discuss.

The Committee did not.

Chairman Taylor called for a motion to adjourn the meeting.

**MOTION:** Mr. Craver moved to adjourn the meeting. Mr. Byrne seconded the motion.

Motion carried.

Adjourned the meeting at 5:43 PM.

Submitted by:

Cassie Sullivan, Forest Preserve Administrative Assistant