

RESOLUTION NUMBER 7759

A Resolution of the Missoula City Council dissolving and disbanding the Greenough Park Advisory Committee and transferring the duties of the Greenough Park Advisory Committee to the Conservation Lands Advisory Committee under the Parks and Recreation Board

WHEREAS, pursuant to a lawsuit stipulation filed in District Court, December 30, 1955 in Cause No. 20156, Estelle Greenough Easton et. al. vs. the City of Missoula (Exhibit A), in which the city of Missoula agreed to adopt 13 points for future government of the park, including a recommendation with the respect to Greenough Park which provided for:

3. A committee consisting of persons with technical knowledge of trees, shrubs and natural park areas be appointed by the city manager to (a) do long-range planning for the park along the following lines in conformance with and in the manner approved in the contract with the Greenough heirs, and (b) make annual plans for development work to be done during the ensuing year; and;

WHEREAS, on October 18, 1993 by Resolution 5504 (Exhibit B) the Missoula City Council created the Greenough Park Advisory Committee to assist the City Parks and Recreation Department and City of Missoula Parks and Recreation Board and elected officials with long range planning as well as annual plans for development work for Greenough Park in accordance with dedication of the park and the court-ordered thirteen points (as set forth in the attached lawsuit stipulation, Exhibit A) to advise consistent with preserving the beauty Greenough Park as a public park with a forest and natural growth area while at the same time beautifying, improving and maintaining the park forever as a public park available for public park purposes for use by the inhabitants of and visitors to the City of Missoula.

WHEREAS, on March 22, 2011, the City of Missoula Parks and Recreation Board established the Conservation Lands Advisory Committee to make recommendations on and oversee implementation of the Missoula Conservation Lands Management Plan and the 1955 Greenough Park court-ordered thirteen points composed of members with expertise in ecology, wildlife biology, botany (especially MT native plants), silviculture, recreation resource management and sociology, wildland restoration, conservation, environmental law, local history, health, recreation and education.

WHEREAS, on December 11, 2012 the Greenough Park Advisory Committee "moved that the City Council is to merge the Greenough Park Advisory Committee (GPAC) into the Conservation Lands Advisory Committee (CLAC), and thereby dissolve GPAC" and also drafted a set of criteria for the Missoula City Council for merging into the Conservation Lands Advisory Committee (Attached Exhibit C).

WHEREAS, the December 11, 2012 GPAC motion as set forth in Exhibit C was forwarded to the Missoula Parks and Recreation Board, and at the Park Board's Jan. 8, 2013 regular meeting, the Park Board approved a motion to recommend to City Council to dissolve GPAC and transfer the duties of GPAC to CLAC. The Park Board also voted that, subsequent to City Council's approval of such actions, the Park Board would amend CLACs By-laws to include a former GPAC member as a voting member of CLAC with a 3 year term and to appoint John Pierce, current chair of GPAC and most knowledgeable member on past management of Greenough park, as new CLAC member.

NOW THEREFORE, BE IT RESOLVED, that the Greenough Park Advisory Committee shall be disbanded and all duties and responsibilities of the Greenough Park Advisory Committee shall be transferred to the Conservation Lands Advisory Committee and the Parks and Recreation Board.

PASSED AND ADOPTED this 4th day of March, 2013

ATTEST:

APPROVED:

/s/ Martha L. Rehbein
Martha L. Rehbein, CMC
City Clerk

/s/ John Engen
John Engen
Mayor

EXHIBIT A:

The 1955 Lawsuit Settlement and the 13 Points

Filed 12/30/55

Retyped by Kathleen Kennedy on 12/31/02

In the District Court of the Fourth Judicial District of the State of Montana, in and for the County of Missoula.

Estelle Greenough Easton, Thomas Leo Greenough, John E. Greenough, Ruth G. Mosby, and Edith Greenough Boissevain, Plaintiffs,

-vs-

The City of Missoula, a municipal corporation, Defendant.

It is hereby stipulated and agreed by and between the parties hereto as follows:

That in the year 1902 the predecessors of the plaintiffs and others deeded to the City of Missoula certain lands which now comprise Greenough Park in Missoula County, Montana, and which are more particularly described in the complaint on file herein. At the time the deeds were given, certain conditions appeared in said deeds with respect to the use of the park. The plaintiffs herein have claimed that the City of Missoula has violated the terms of the deeds and have sought by this action to cause the title to the park to revert to the plaintiffs as the successors of Thomas L. Greenough and Tennie Greenough, who deeded a substantial portion of the land known as Greenough Park to the City of Missoula. The principal claim of the plaintiffs has been that the City has not kept the park in its natural state and has not protected the same from vandalism and has used heavy equipment in the park for the purpose of clearing and creating an artificial rather than a natural one. There have been numerous conferences between representatives of the plaintiffs and the Park Board of the City and the City Commission of the City, and for the purpose of settling this action and for the purpose of establishing a future policy for the operation of Greenough Park, the plaintiffs have agreed that if the City would adopt as a plan for the government of the park a series of 13 points which were recommended by the Park Board of the City of Missoula to the City many years ago and would hereafter refrain from destroying the natural beauty of the park and using heavy equipment for the purpose of clearing trees and shrubbery, that the plaintiffs herein would dismiss this action. The City has heretofore adopted by action of the Park Board and the City Commission the following 13 points for the future government of the park:

The 13 Points

1. Resurvey the park to (a) check and mark corners and boundaries; (b) to show current location of Rattlesnake Creek channel and other park features; and (c) to pick up any trespasses that have occurred and prevent and additional trespasses.
2. All roads except the periphery drive be blocked off and parking areas be established immediately adjacent to the drive at designated locations to (a) enable easy access to the park and at the same time enable rebuilding for park purposes those sections destroyed by random use of vehicles within the park, and (b) aid in policing, which has been a problem in the past years, and prevent use of the park by overnight campers.
3. A committee consisting of persons with technical knowledge of trees, shrubs and natural park areas be appointed by the city manager to (a) do long-range planning for the park along the following lines in conformance with and in the manner approved in the contract with the Greenough heirs, and (b) make annual plan for development work to be done during the ensuing year.
4. The present picnic area at the picnic shelter, the present wading pool area, and the southwest (exit) are of the park to be the only areas of artificial development. All other areas of the park to be improved in a natural manner. No fires to be permitted anywhere in the park except at the present picnic area.
5. Recheck park trees for safety. Those to be removed are to be clearly marked; likewise those which are to be limbed of dead branches. After being marked they are to be removed or limbed very promptly, the manner of removal to be defined by the committee. Trees are to be cut off at ground level.
6. All dead and down trees to be removed as soon as possible, with no burning that might endanger any live growth in the park.
7. The area beginning immediately north and northeast of the wading pool, except the area now in lawn around the wading pool, to be replanted with trees and shrubs natural to the park. Plan as soon as possible to put in benches around the wading pool for adults watching the children.
8. After the dangerous trees are removed and dangerous limbs cut from other trees, and after dead and down material is disposed of, then carefully trim out the remaining shrubbery. Do not clean out all the shrubbery, but take out only the unattractive plants, selecting the attractive ones to remain as individuals or clumps attractively distributed. Trim up those to remain so as to make them more attractive. A great deal of care should be applied on this job. The idea is not to remove all the shrubbery but to clean out only those

portions which make it look messy. Someone with an eye for what is needed should be on the job along with the workmen. The cannot be expected to do a satisfactory job under only general supervision.

9. Develop natural-seeming paths throughout the park, with small areas for picnic tables and benches. No fireplaces or fires to be permitted except at officially designated areas. Development of these paths and areas to be done section by section as money and manpower are available for original work and maintenance. At least two more footbridges be built across the Rattlesnake. Concrete culverts by fishpond and wading pool be removed and replaced by footbridges.
10. Toilet facilities should be improved and marked but well shielded from general view.
11. No more cutting or clearing around fish pond area other than that designated by the committee in its general park program. This area to be left as natural as possible.
12. Measures be taken to prevent erosion of the creek bank, channel changes and other high-water damage.
13. For the purpose of a permanent, sound record, every time a picnic table spot is selected or a spot for a new toilet is picked, in fact when the spot for any kind of installation is selected, it should be plainly marked on the park map on file in the engineer's office so that if the work is not immediately done, those doing it at a later time will be guided by a plan that fits in with what is done before.

EXHIBIT B:

RESOLUTION NO. 5504

A RESOLUTION OF THE MISSOULA CITY COUNCIL ESTABLISHING A GREENOUGH PARK ADVISORY COMMITTEE TO ASSIST WITH LONG RANGE PLANNING FOR GREENOUGH PARK.

WHEREAS, pursuant to a lawsuit stipulation filed in District Court, December 30, 1955 in Cause No. 20156, Estelle Greenough Easton etal. vs. the City of Missoula, the city of Missoula agreed to adopt a recommendation with respect to Greenough Park which provided for:

3. A committee consisting of persons with technical knowledge of trees, shrubs and natural park areas be appointed by the city manager to (a) do long-range planning for the park along the following lines in conformance with and in the manner approved in the contract with the Greenough heirs, and (b) make annual plans for development work to be done during the ensuing year; and;

WHEREAS, it would be helpful to formally establish this Greenough Park Advisory Committee pursuant to a resolution the official record of which will be retained in the City Clerk's Office.

- WHEREAS, the City of Missoula no longer has a city manager form of government, therefore the Mayor should be designated to make appointments of persons to Greenough Park Advisory Committee;
- ✓ NOW THEREFORE, BE IT RESOLVED that a seven (7) member Greenough Park Advisory Committee appointed by the Mayor subject to the approval of the City Council is hereby established with a majority of the members being residents of the Rattlesnake Valley and at least one member of the committee shall be an at large resident of the city from outside the Rattlesnake Valley and appointments shall be effective and terms shall commence October 1, 1993 with terms of appointment for terms of four (4) years except that in order to establish staggered terms, four (4) of the 1993 appointments shall be designated by the Mayor for two (2) years with the remaining three (3) 1993 appointments for four (4) years;
- ✓ BE IT FURTHER RESOLVED, that the Greenough Park Advisory Committee shall have the duties and responsibilities to assist the City Parks and Recreation Department and City of Missoula Park Board and elected officials with long range planning as well as annual plans for development work for Greenough Park in accordance with the dedication of the park and the court-ordered thirteen points (set forth in the attached lawsuit stipulation identified as Exhibit # 1) to advise consistent with preserving the beauty of Greenough Park as a public park with a forest and natural growth area while at the same time beautifying, improving and maintaining the park forever as a public park available for public park purposes for use by the inhabitants of and visitors to the City of Missoula.
- ✓ BE IT FURTHER RESOLVED, that the Greenough Park Advisory Committee shall operate pursuant to the provisions of this resolution and that any prior city directives or mayoral orders concerning this matter are no longer of any force or effect.

PASSED AND ADOPTED this 18th day of October, 1993.

ATTEST:

APPROVED:

EXHIBIT C:

Motion and Criteria for Merger of Greenough Park Advisory Committee into Conservation Lands Advisory Committee

December 11, 2012

It is moved that the City Council is to merge the Greenough Park Advisory Committee (GPAC) into the Conservation Lands Advisory Committee (CLAC), and thereby dissolve GPAC. This motion is subject to and contingent upon City Council's commitment, to be made before dissolution of GPAC, to ensure compliance with the following criteria:

- respect for and compliance with the grant of park lands from the Greenough family
- high priority of replacing the picnic shelter and adjacent restrooms along with updating the play structure with more environmental/educational-friendly infrastructure and developing a master plan for the park
- the Parks and Recreation Department will consolidate and maintain materials and documents recording history of the park and its structures and the management of the park
- CLAC will oversee the development of a master plan for Greenough Park
- CLAC will conduct an annual field trip to monitor Greenough Park and compliance with the thirteen points
- transfer of current chairperson (John Pierce) to CLAC membership for a three-year term along with amendment of CLAC bylaws to accommodate an additional voting member
- CLAC will advise the City on management of Greenough Park in its entirety
- any monies in the GPAC bank account at the time of dissolution will be dedicated to the park brochure