



A-1 September 12, 2024

Minutes

City of Bloomington Board of Park Commissioners

Special Meeting: Tuesday, July 23, 2024 5:45 p.m.

Council Chambers, 401 N Morton St, Bloomington, IN

CALL TO ORDER - ROLL CALL

The Special Meeting was called to order by Kathleen Mills at 5:47pm

Present: Kathleen Mills, Ellen Rodkey, and Israel Herrera

Virtual: Absent

Staff present: Tim Street, Becky Higgins, Leslie Brinson, Clarence Boone, and Kim Clapp

A. BUSINESS

A1. Review/Approval of City of Bloomington Farmers' Market suspension appeal.

Tim Street, Director approached the podium: staff recommends upholding the suspension as it was issued, of Andre Deloney for reasons related to an incident that occurred at the Farmers' Market on Saturday, May 25, 2024. The Park Board does have authority in this issue.

On May 25th, 2024 an incident occurred at the Farmers' Market in which Andre Deloney was observed getting into line behind women, and rubbing himself against them. This came to our attention because a Bloomington Parks and Recreation staff member, who was attending the Farmers' Market that day with her husband, was bumped into three times. On the third occurrence, she turned around and confronted him, at which point he left the line and the area. The staff member located the on-site security officer with Marshall Security. They relocated Mr. Deloney, and observed him continuing this behavior with multiple other women, and provided a video and image with the MSI incident report. When confronted by MSI and Clarence Boone, the Farmers' Market Coordinator, Mr. Deloney responded that he was seeking help for his issues. When he was notified that law enforcement was on the way, he left the area. He was later arrested, and charges are pending in this case.

Per Parks Policy 11080, the Director is empowered to issue park suspensions for disruptive behavior. Upon learning of this behavior, Mr. Deloney was issued a one-year suspension from the Farmers' Market, as these are locations where women in line would potentially be vulnerable to this behavior. This suspension was issued and in accordance with policy Mr. Deloney was sent the notice and appeal letter included in the packet materials.

Mr. Chris Wheeler, City Legal will discuss the policy and legal side of these procedures. If Mr. Deloney is here, he will be given time to present his case to the Board. If not, the Board can proceed to any questions and ruling. When that is done, Mr. Wheeler will type up the findings. It is recommended the Board take a brief recess at that time until Mr. Wheeler can return with the findings to be read, adopted, and signed by the Board.

Mr. Chris Wheeler, City Legal approached the podium, because this sort of an action is appealed and is subject to the potential of a judicial review by the trial court it is important to review the Board of Park Commissioners' Authority, on the record, and in part of the findings.

This is a statutorily authorized board, under Indiana Code § 36-10-4, and under that particular code gives the Board the authority to make rules for the management of the property under the Board of Park Commissioners control. This Board was established by Bloomington Municipal Code Section § 2.20, which adopts Indiana Code § 36-10-4. This Board has established a Department of Parks and Recreation Policy Manual, and in that manual under Administrative Policy 2050 II. (A). A person may be suspended from use or entrance on property owned, managed, or operated by the City of Bloomington Parks and Recreation Department for reasons that include, but are not limited to: actions or behavior which violate the United States Code; Indiana Code; Indiana Administrative Code; or even City of Bloomington Municipal Code. People can be removed for actions or behavior which violates the rules and regulations that have been adopted by the City Bloomington Parks and Recreation Department. People can be suspended and removed for: aggressive or violent actions or behavior; actions or behavior that unreasonably disrupts the activities of other users of the park or facility; actions or behavior that unreasonably interferes with other persons' ability to use the park or facility; actions or behavior which unreasonably causes or creates a risk of causing injury to persons within or on property owned, managed or operated by the City of Bloomington Parks; actions or behavior which unreasonably causes or creates a risk of causing damage to property owned, managed or operated by the City of Bloomington Parks, and actions or behavior which constitutes a public nuisance.

Bloomington Parks and Recreation's most recent version of Behavior Policy 11080, which was approved by the Board of Park Commissioners in March of 2024, prohibits any behavior which is disruptive or which hinders the use of Bloomington Parks and Recreation Parks programs or services. This includes but is not limited to verbal or physical harassment or assault. Policy 11080 also states that offences may result in an up to one-year suspension, which is what staff is recommending today. Policy 11080 also provides that the individual may appeal, and that individual did appeal within the allowed window of time. That is why we are here today. Staff are happy to take any questions.

Clarence Boone, Farmers' Market Coordinator approached the podium: requests the Board exercise the full extent of their authority to keep Mr. Deloney out of the Farmers' Market.

Kathleen Mills, President commented: Mr. Deloney was not in attendance. In Mr. Deloney's appeal, he felt that things had not been decided from a criminal case point of view. Kathleen Mills commented: the Bloomington Parks and Recreation Department have their own policies and it doesn't have to be technically criminal to be removed from a Parks facility or environment.

Israel Herrera commented: it was against the Park's policy, there was evidence, descriptions, and statements.

Kathleen Mills commented: we have everything laid out for us, and we want everyone to feel safe at the Farmers' Market.

Kathleen Mills called a brief recess at 5:56pm. Meeting reconvened at 6:04.

Chris Wheeler, Legal approached the podium: Read the finding proposed by of the Board of Park Commissions, which are as follows:

City of Bloomington's Board of Park Commissioners'
Order on Appeal of Notice of Suspension for Violating
Behavior Policy 11080

This matter is before the Board of Parks Commissioners for an Appeal of Notice of Suspension

from the Bloomington Farmers' Market, filed by Mr. Andre Deloney. The suspension was issued on June 5, 2024 for conduct that occurred at the Bloomington Farmers' Market on May 25, 2024.

The Board of Park Commissioners now finds as follows:

1. Under the authority of Indiana Code § 36-10-4 et seq., and Bloomington Municipal Code § 2.20, and in accordance with Administrative Policy 2050 II. (A) of the Department of Parks and Recreation Policy Manual, a person may be suspended from use or entrance on property owned, managed, or operated by the City of Bloomington Parks and Recreation Department for reasons that include, but are not limited to:
 - a) Actions or behavior which violate the United States Code;
 - b) Actions or behavior which violate the Indiana Code;
 - c) Actions or behavior which violate the Indiana Administrative Code;
 - d) Actions or behavior which violate the City of Bloomington Municipal Code;
 - e) Actions or behavior which violate the Rules and Regulations adopted by the City of Bloomington Parks and Recreation Department or City of Bloomington Parks Board, unless the appropriate permit has been obtained;
 - f) Aggressive or violent actions or behavior;
 - g) Actions or behavior that unreasonably disrupts the activities of other users of the park or facility;
 - h) Actions or behavior that unreasonably interferes with other persons' ability to use the park or facility;
 - i) Actions or behavior which unreasonably causes or creates a risk of causing injury to persons within or on property owned, managed or operated by the City of Bloomington Parks and Recreation Department;
 - j) Actions or behavior which unreasonably causes or creates a risk of causing damage to property owned, managed or operated by the City of Bloomington Parks and Recreation Department; or
 - k) Actions or behavior which constitutes a public nuisance.
2. The most recent version of the Department of Parks and Recreation Behavior Policy 11080 was approved by the Board of Park Commissioners in March of 2024. These behavior guidelines prohibit "Any behavior which is disruptive or which hinders the use of Bloomington Parks and Recreation Department programs or services . . . This includes but is not limited to verbal or physical harassment or assault "
3. Policy 11080 also states that offenses may result in up to a one-year suspension, and that the Department shall notify the individual of any sanctions resulting from their behavior.
4. Policy 11080 also provides that the individual may appeal any sanctions imposed to the Board of Park Commissioners.
5. On May 25, 2025, Mr. Deloney attended the Bloomington Farmers' Market, which is operated and managed by the Bloomington Department of Parks and Recreation.

Parks Staff received multiple first-hand reports that Mr. Deloney touched and groped other customers in an unwanted sexual manner while at the Farmers' Market.
6. As a result of these reports, on June 5, 2024, the Bloomington Parks and Recreation Department issued their "Notice of Suspension from City of Bloomington Farmers' Markets" ("NOS") suspending Mr. Deloney from the Bloomington Farmers' Market from June 5, 2024 until June 5, 2025. This NOS also included instructions for appealing the suspension.
7. An appeal was scheduled before this Commission on July 23, 2024.
8. At the appeal, City of Bloomington Department of Parks and Recreation staff presented evidence of Mr. Deloney's behavior.
9. Mr. Deloney failed to appear.

10. The evidence supports a finding that Mr. Deloney violated Policy 11080.

After reviewing all of the evidence and testimony presented, the Board of Park Commissioners hereby orders as follows:

1. Commissioners uphold the NOS issued by the Department of Parks and Recreation on June 5, 2024.

So Ordered this 23rd Day of July, 2024.

Signed Kathleen Mills, President, Board of Park Commissioners, City of Bloomington.

Staff recommends that the Board adopt these findings and orders.

Ellen Rodkey made a motion to adopt the findings on the Order on Appeal of Notice of Suspension for Violating Behavior Policy #11080. Israel Herrera seconded the motion. Vote take: motion unanimously carried 3-0.

ADJOURNMENT

Meeting was adjourned at 6:10 pm

Respectfully Submitted,



Kim Clapp,
Secretary Board of Park Commissioners