Book 2007 Page 562
Document 2007 562 Type 06 018 Pages 6
Date 2/28/2007 Time 12:23:19PM
Rec Amt $32.00

DEBORAH L. PEYTON, RECORDER/REGISTRA
DELAWARE COUNTY IOWA

Prepared by: Ben Page, City of Manchester, 208 E. Main St., Manchester, Iowa 52057 Phone (563) 927-3636
Return to: City of Manchester, 208 E. Main St., Manchester, Iowa 52057

CHAPTER 28E AGREEMENT FOR THE BECKMAN SPORTS COMPLEX

THIS AGREEMENT made and entered into this 22nd day of February, 2007, by and between the City of Manchester, Iowa, hereinafter referred to as "City", the West Delaware County Community School District, hereinafter referred to as "School District", and the Manchester Kids League, hereinafter referred to as "Kids League" and the Greater Delaware County Foundation, hereinafter referred to as the "Foundation".

1. PURPOSE

The purpose of this agreement is to provide for the operation and maintenance of the "Beckman Sports Complex" pursuant to Iowa Code 28E (2006). The Beckman Sports Complex is located at 901 East Acers Street on the following-described real estate:

The North one-half (N1/2) of the Southwest Quarter (SW ¼) of the Northwest Quarter (NW ¼), except the West eight hundred twenty one and three-tenths (821.3) feet thereof, and that part of the South one-fourth (S ¼) of the Northwest Quarter (NW ¼) of the Northwest Quarter (NW ¼) lying South of Acers Street, except the West eight hundred twenty one and three-tenths(821.3) feet thereof, all in Section Twenty Eight (28), Township Eighty Nine (89) North, Range Five (5), West of the Fifth P.M.; except the West 308.22 feet.

That part of the Northeast Quarter (NE ¼) of the Northwest Quarter (NW ¼) of Section Twenty Eight (28), Township Eighty Nine (89) North, Range Five (5), West of the Fifth PM. Described as commencing at a point nine hundred sixty three (963) feet South of the Northwest corner of said Northeast Quarter (NE ¼) of the Northwest Quarter (NW ¼), and running thence East six hundred twenty eight (628) feet, thence South to a point one and fourteen hundredths (1.14) chains North of the South line of said Northeast Quarter (NE ¼) of the Northwest Quarter (NW ¼), thence West to the West line of said Northeast Quarter (NE ¼) of the Northwest Quarter (NW ¼), thence North to the point of beginning, subject to roadway along the North and East sides thereof; and the South one and fourteen hundredths (1.14) chains of the West eight and seventy three hundredths (8.73) chains of the Northeast Quarter (NE ¼) of the Northwest Quarter (NW ¼) and the West eight and seventy three hundredths (8.73) chains of the North one-half (N1/2) of the Southeast Quarter (SE ¼) of the Northwest Quarter (NW ¼), all in Section Twenty Eight (28), Township Eighty Nine (89) North, Range Five (5), West of the Fifth P.M., subject to easements and road right of ways of record.

2. ADMINISTRATION

The Parties to this agreement concur that the City of Manchester shall be responsible for operating and maintaining the Beckman Sports Complex. The City shall establish a "Facilities Management Committee" to advise the Manchester Park and Recreation Commission and the City Council on utilization, financing, and operation of the Beckman Sports Complex. The City shall own the above-described real estate where the Beckman Sports Complex is located. The Facilities Management Committee shall consist of the following representatives:

a. Two members appointed by the Kids League Board
b. Two members appointed by the West Delaware County Community School Board
c. The Manchester Parks and Recreation Director
d. A member appointed by the Manchester City Council
e. One member appointed by the Greater Delaware County Foundation

Each party to this agreement shall also be allowed to designate alternates to the Facilities Management Committee should their representatives be unable to attend committee meetings.

3. POWERS AND DUTIES

Paragraph 1. The City of Manchester shall have the powers set forth below, which shall be exercised by the sole discretion of the City:

a. To acquire, hold, use and dispose of any moneys generated from any source.
b. To acquire, hold, use and dispose of other personal property for the purposes of the Beckman Sports Complex.
c. To acquire by purchase, gift, lease or otherwise, real property and easements thereon, which are necessary or useful and convenient for the operation of the Beckman Sports Complex, subject to any and all liens thereon and to hold and use the same, and to dispose of property so acquired including but not limited to the above described property when no longer necessary, for the purposes of the Beckman Sports Complex.
d. To accept gifts or grants of real or personal property, money, material, labor or supplies for the purposes of the Beckman Sports Complex and to make and perform such agreements and contracts as may be necessary or convenient in connection with the procuring, acceptance or disposition of such gifts or grants.
e. To do and perform any acts and things authorized by Chapter 28E, Code of Iowa, and by this Joint Agreement, under, through or by means of its officers, agents and employees, or by contracts with any person or persons.
f. To enter into any and all contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the Beckman Sports Complex or to carryout any powers expressly given by this Joint Agreement.
g. To make, or cause to be made, studies, reports and surveys necessary or useful and convenient to carrying out the functions of the Beckman Sports Complex.
h. To contract with and compensate consultants for professional services, including, but not limited to, architects, engineers, planners, attorneys, accountants, rate specialists, and all others which are necessary or useful and convenient to the stated purposes of the Beckman Sports Complex.
i. To exercise such other powers as are available under the existing laws as are necessary or useful and convenient to carrying out the functions of the Beckman Sports Complex within the jurisdiction of such Governmental Unit.
j. To establish a budget for operation of the Beckman Sports Complex as well as to provide for a system of budgeting, accounting, auditing and reporting of all funds and transactions related to the Beckman Sports Complex.
k. Establish reasonable charges and fees for the use of the Beckman Sports Complex and all such income shall be paid into a separate account for the Beckman Sports Complex.
l. Adopt and enforce such reasonable rules and regulations, not inconsistent herewith. Such rules and regulations shall be in written form and copies of the same available to the public at all times.
m. To hire employees, fix their compensation, benefits, personnel rules and regulations, and terminate their employment.

n. Provide property and liability insurance for the Beckman Sports Complex.
o. Provide funding and financing as set forth in Section 6 of this agreement.

Paragraph 2. The West Delaware School District shall be responsible for the following:

a. Cooperative scheduling with Kids League for the use of the Beckman Sports Complex. The School District shall have the priority use of the facility. The Kids League shall have second priority, and the City third priority. Other persons or groups can schedule events at the Beckman Sports Complex after priority groups have been scheduled. Except when the Beckman Sports Complex is being utilized for a school event sponsored by the Iowa High School Athletic Association or the Iowa High School Girls Athletic Union, the Beckman Sports Complex can be used simultaneously by more than one group. The scheduling goal shall be to maximize utilization of the Complex. Each Spring the Kids League will develop a schedule for their events and coordinate the same with the School District. Any scheduling conflicts can be presented to the Facilities Management Committee for further consideration and review.
b. Routine maintenance and care of the baseball diamond (Exide Field).
c. Provide use of portable bleachers on the northeast diamond (Exide Field).
d. Provide funding and financing as set forth in Section 6 of this agreement.
e. To extend their insurance coverage for the due consideration of use of the following jointly owned equipment:
    1. New Holland TC33 Tractor
    2. New Holland 7308 Loader with bucket
    3. Bush hog 72 inch mower
    4. Landpride 58 inch model 15 tiller
    5. 2005 Kawasaki Mule

Paragraph 3. The Kids League shall be responsible for the following:

a. Share scheduling responsibilities with the School District as set forth in Section 2, Paragraph 2(a).
b. Assist with general care and maintenance of the Beckman Sports Complex (except for baseball diamond).
c. Provide funding and financing as set forth in Section 6 of this agreement.

4. DURATION, WITHDRAWAL AND DISSOLUTION

The duration of the agreement shall be on (1) year commencing on January 1, 2004 and shall automatically renew every year thereafter upon its anniversary date for one (1) additional year unless action is taken to withdraw or dissolve the 28E Agreement as herein stated:

a. The governing body of the Party shall adopt a resolution to withdraw from the Joint agreement.
b. A certified copy of such resolution shall be filed with the City Clerk of Manchester and shall be postmarked no less than one hundred eighty (180) days prior to the anniversary date of this agreement.
c. A certified copy of such resolution shall be mailed to all other parties to the agreement at such address as specified by each party herein, and shall be postmarked no less than 180 days prior to the anniversary date of this agreement.

This Agreement may be terminated at any time by a unanimous vote of the Parties of this agreement. This Agreement shall terminate automatically at any time when less than two organizations are parties to this Agreement.

Upon termination of this agreement, all funds and assets subject to the control of each party shall remain in their possession.

5. AMENDMENTS

This Agreement may be amended upon approval of a majority of the governing bodies of the Parties to this Agreement. A copy of any such proposed amendment shall be sent by the City of Manchester to each Party of this Agreement. A certified copy of the resolution of the governing body of each Party of this Agreement approving or rejecting any such proposed amendment shall be filed with the City of Manchester within forty-five (45) days after receipt of the proposed amendment by such Party.

6. FINANCING

It shall be the responsibility of the City of Manchester to establish a budget for the operation of the Complex. Each budget shall be developed by the Manchester Park and Recreation Commission by January 1st preceding each fiscal year of each subsequent year that this agreement shall remain in effect. Any calendar year when revenues exceed expenditures, the excess will be transferred to the Beckman Sports Complex Fund for expenses incurred for the duration of this agreement. Any year when operating expenditures exceed operating revenues, and there is no remaining balance in the Beckman Sports Complex Fund, the loss will be share equally by the City, the Kids League, and the School District. Payment shall be made by the City, the Kids League and the School District to the Beckman Sports Complex Fund in equal shares to compensate the loss within 60 days of the billing date.

7. MISCELLANEOUS PROVISIONS

a. All concessions stand proceeds except for special tournaments sponsored by the Kids League or the West Delaware Booster Club shall be placed in the fund to cover costs of operating the complex and shall be subject to the powers and duties of the City of Manchester as set forth in Section 3, Paragraph 1 herein.
b. The City may hire a person, either full-time or part-time, at its sole discretion, to manage or otherwise oversee Beckman Sports Complex maintenance and operation, except for the northeast diamond (see Section 3, Paragraph 2b).
c. All groups shall provide labor to assist the Complex Manager of other persons designated by the City to operate the concession stand during utilization of the Complex by that respective group.
d. Kids League may hold some special tournaments where they are entitled to keep the gate fees to cover other expenditures for the League.
e. The School District shall be entitled to retain gate fees for high school games, but may be required to pay any expenses for such games (i.e., lighting) in an amount to be determined by the City, subject to advice provided by the Facilities Management Committee.

f. Alcoholic beverages are not to be sold or carried on to the Beckman Sports Complex.
g. This agreement shall, pursuant to Code of Iowa Section 28E.8, be filed with the Secretary of State and recorded with the Delaware County Recorder.

MANCHESTER KIDS LEAGUE SCHOOL
BY: Brett Heiserman
Brett Heiserman, President

WEST DELAWARE COUNTY COMMUNITY
BY: Gary Johnson
Gary Johnson, President

GREATER DELAWARE COUNTY FOUNDATION
BY: John E. Tyrrell
John E. Tyrrell, Chairperson

CITY OF MANCHESTER
BY: Milt L. Kramer
Milt L. Kramer, Mayor

ATTEST:
BY:
Erin Rempe, City Clerk

CITY OF MANCHESTER IOWA SEAL

STATE OF IOWA)
) **SS:**
COUNTY OF DELAWARE)

On this 21 day of February, 2007 before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Brett Heiserman, to me known to be the identical person named in, and who, being by me duly sworn, did say that he is the President of the Manchester Kids League, and who executed the foregoing instrument, and acknowledge that he executed the same as his voluntary act and deed.

Linda Loney-Fangmann
Notary Public

LINDA LONEY-FANGMANN
Commission Number 708684
My Comm. Exp. 2009

STATE OF IOWA)
) **SS:**
COUNTY OF DELAWARE)

On this 12th day of February, 2007 before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Gary Johnson to me known to be the identical person named in, and who, being by me duly sworn, did say that he is the President, respectively, of the West Delaware Community School Board, and who executed the foregoing instrument, and acknowledge that he executed the same as his voluntary act and deed.

Brenda Wall
Notary Public

Brenda Wall
COMMISSION NUMBER 226[illegible]
My Commission Expires
12-22-08

STATE OF IOWA)
) **SS:**
COUNTY OF DELAWARE)

On this 22 day of February, 2007, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Milt L. Kramer and Erin Rempe, to me personally known, and who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Manchester, Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council as contained in Resolution R-161-2006 passed by the City Council of the City of Manchester, Iowa on the 11 day of Dec., 2006, and that Milt L. Kramer and Erin Rempe acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

Laura K. Thomas
Notary Public

STATE OF IOWA)

LAURA K. THOMAS
Commission Number 718135
My Commission Expires
3-26-08

) SS:
COUNTY OF DELAWARE)

On this 22nd day of February, 2007, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared John E. Tyrrell to me personally known, who, being by me duly sworn, did say that he is the Chairman of the Board of Governors of said corporation; that (no seal has been procured by the said corporation); that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said John E. Tyrrell as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by him voluntarily executed.

Laura K Thomas
Notary Public

NOTARIAL SEAL IOWA
LAURA K. THOMAS
Commission Number 718135
My Commission Expires
8-26-08