



Legislation Text

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CITY COUNCIL AGENDA ITEM

ACTION REQUESTED:

Adopt the Resolution Approving the Naperville Jaycees Smart Park Donation Agreement

DEPARTMENT: Legal Department

SUBMITTED BY: Michael DiSanto, City Attorney

BOARD/COMMISSION REVIEW:

N/A

BACKGROUND:

During the State of the City in 2017, Mayor Chirico cast a vision for the creation of a high-tech park behind the Naperville Municipal Center and along the Naperville Riverwalk. The “smart park” is to feature high speed WiFi, tables, shaded areas, and electrical outlet powered by solar panels installed on the roof of the Municipal Center. The smart park is intended for use as a public outdoor workplace, where local businesses could hold meetings, professionals can work, and students can study. The park is projected to cost approximately \$400,000 and is intended to be funded entirely by private donations.

In August 2017, the Naperville Riverwalk Commission voted to approve the addition of the Smart Park. The Naperville Jaycees offered to serve as the primary sponsor for the Smart Park. The Jaycees have offered to pledge \$200,000 over ten years to fund the construction of the park.

DISCUSSION:

In order to memorialize the Naperville Jaycees’ pledge, a donation agreement was negotiated between the City, the Jaycees, and the Riverwalk Foundation. Under the proposed agreement, the Jaycees’ responsibility will be to tender \$200,000 over ten years to fund the construction of the park. The agreement further proposes that, if Council decides to approve the Smart Park, then:

- The City shall name the smart park the “Naperville Jaycees Smart Park”.
- The City shall prominently display the Jaycee’s name and logo at the Naperville Jaycees Smart Park.
- The City shall include in the Naperville Jaycees Smart Park a space to advertise and promote local community events and local not-for-profit organizations that will be managed by the Jaycees. The Jaycees may advertise any local community events and local not-for-profit organizations in the provided space, subject to approval by the City’s City Manager or his or her designee. The Jaycees may not charge a fee to third-parties in exchange for providing advertising in the space.
- The City shall include in the Naperville Jaycees Smart Park a plaque displaying the names of

the officers and directors of the Jaycee's who were in office when this Agreement was approved by the Jaycees.

- The City shall provide the Jaycees the opportunity to have prominent participation in any groundbreaking, ribbon cutting, and dedication ceremonies related to the Naperville Jaycees Smart Park.
- The City shall provide the Jaycees with an opportunity to fund any significant future developments at the Naperville Jaycees Smart Park prior to providing funding opportunities to any other entity ("right of first refusal").
- The Jaycees shall have the exclusive right to set the cost and sell all available brick pavers used within the Naperville Jaycees Smart Park. The Jaycees may assign this right to the Foundation or the City. The City shall have the right, in its sole discretion, to determine the number and placement of the brick pavers that will be included in the Naperville Jaycees Smart Park.

The Riverwalk Foundation's responsibility will be to receive the Smart Park restricted donations and allocate them to fund the construction of the Smart Park.

The agreement further specifies that if the Jaycees does not meet its funding obligation, then it will: (1) forfeit all the terms described above; (2) not receive a refund of any funds already tendered; and (3) be subject to a cause of action brought by the City for recovery of any remaining unpaid portion of the pledged \$200,000, unless a new donor assumes the Jaycees' pledge obligations. Additionally, the agreement provides an "exit clause" that would allow the City to terminate the agreement after 20 years, without any refund of contributions, if determined that it is in the best interest of the public to demolish, remove, repurpose, or otherwise eliminate the Smart Park.

Note, this agreement is completely contingent on the City Council's future approval of the Smart Park, which the Council has not yet approved. Approval of this agreement will not obligate the Council to build the Smart Park. By securing this, and likely other contributions, the City will get the private funding components in place so that Council may consider the project with the funding commitments.

The Naperville Jaycees recently approved and signed the attached agreement. The Riverwalk Foundation's board previously generally approved serving this project in a capacity consistent with the attached agreement. The Foundation is expected to approve and sign the attached agreement, but we have not yet received an executed copy.

It is expected that a complete proposal concerning the smart park will be on the Council's agenda in the first quarter of 2018 for Council's consideration.

FISCAL IMPACT:

The Smart Park is expected to cost approximately \$400,000 and the establishment and maintenance of the park is intended to be funded by private donations so as to have no fiscal impact on the City.