Establishing a County Park and Recreation Department under Indiana's Park and Recreation Law

James A. Peterson
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by James A. Peterson

Sixty of Indiana's 92 counties have formed park and recreation departments with annual expenditures in excess of 7 million dollars.* Of the 60 park and recreation boards 55 (or 92%) of them are organized under authority of "The Park and Recreation Law," IC 36-10-3. This statute, first adopted in 1955, has been revised and updated several times by the Indiana General Assembly. It is a comprehensive statute and once adopted allows county government broad powers for providing park, recreation, and leisure services.

I. Procedures for Establishment of a Board

In a county the fiscal body (county council) may adopt an ordinance creating a department of parks and recreation. The department consists of a park and recreation board, a superintendent, and other personnel that the board determines. (IC 36-10-3-3)

Board membership. A county board shall be appointed as follows:

1. Two (2) members shall be appointed by the judge of the circuit court.

2. One (1) member shall be appointed by the county executive.

3. Two (2) members shall be appointed by the county fiscal body.

The members appointed under subdivisions 1, 2, and 3 shall be appointed on the basis of their interest in and knowledge of parks and recreation, but no more than one (1) member appointed under subdivisions 1 and 3 may be affiliated with the same political party. In a county having at least one (1) city with a population of at least 35,000, the creating ordinance must provide for one (1) ex-officio board member to be appointed by the executive of that city. The member appointed by the city executive must be affiliated with a different political party than the member appointed by the county executive. However, if a county has more than one (1) such city, the executives of those cities shall agree on the member. The member serves for a term coterminous with the term of the appointing executive or executives.

The creating ordinance in any county may provide one additional ex-officio member by including:

1. the county cooperative extension coordinator;

2. the county extension agent; or

3. a member of the county extension committee selected by the committee; to serve as an ex-officio member of the county board, in addition to the members provided for above.

The creating ordinance in a county having no first or second class cities may provide for a member of the county park board to be selected by the board of supervisors of a soil and water conservation district in which a facility of the county park board is located. The member selected under this subsection is in addition to the members provided for above.

Ex-officio members have all the rights of regular members, including the right to vote. A vacancy in an ex-officio position shall be filled by the appointing authority.

Neither a municipal executive nor a member of a county fiscal body, county executive, or municipal fiscal body may serve on a board.

* This figure does not include the 14.75 million dollar Indianapolis/Marion County combined park and recreation budget.

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**Alternative for Board Structure**

1. In counties without a city of at least 35,000 the board consists of:
   
   A. two members appointed by the Judge of the Circuit Court
   
   B. one member appointed by the county executive (commissioners)
   
   C. two members appointed by the county fiscal body (council) total number five (5).

2. In counties with one or more cities over 35,000 population the board consists of the five members listed above plus an ex-officio member appointed by the mayor(s) of the city(s) involved. Total number six (6).

3. In #1 and #2 above, the additional ex-officio member may be added. The creating ordinance may provide for either the County Cooperative Extension Coordinator; the County Extension Agent; or a member of the County Extension Committee selected by the committee. In #1 above this would total six (6). In #2 above this would total seven (7).

4. In #1 above, counties without a city of 35,000 or more, the creating ordinance may provide for an ex-officio member of the county park board to be selected by the Board of Supervisors of the Soil and Water Conservation District in which a facility of the county park board is located.

   In #1 above this would total seven (7) members if both ex-officio members were included.

   **Initial appointments and reappointments.** Upon establishing the board, the respective authorities shall designate the term of the members initially appointed within 90 days of the adoption of the law. IC 36-10-3-5-(c) Initial appointments to a county board are as follows: (IC 36-10-3-5-(b))

   1. The Circuit Court Judge’s appointments are for (1) and three (3) years terms, respectively.

   2. The county executive's appointment is for a two (2) year term.

   3. The county fiscal body's appointments are for two (2) and four (4) year terms, respectively. As a term expires, each new appointment is for a four (4) year term.

   All terms expire on the first Monday in January, but a member continues in office until a successor is appointed. If an appointment for any new term is not made by the first Monday in April, the incumbent shall serve another term. If a vacancy occurs on the board, the appointing authority shall appoint a person to serve for the remainder of the unexpired term.

   The mayor’s appointment is coterminous with his/her office and the terms of the other two ex-officio members (if included in the ordinance) shall be coextensive with the term of his/her office.

   Members of the board may be removed only for cause, upon written charges filed against them. A public hearing shall be held. (IC 36-10-3-6)

   In case a city is situated in a county having a county board, the city and county board each may designate a member to sit with the other board as an advisory member. (IC 36-10-3-7)

   The meetings of the board shall be public. A majority of the members shall constitute a quorum, and no action is official unless authorized by at least three members present and acting. (IC 36-10-8-(d)).

   The members of the board may receive a salary not to exceed $300.00 per annum. The county council may appropriate and approve a per diem allowance for attending board meetings (IC 36-10-3-9-(c)).

   The unit (county commissioners) shall provide suitable quarters for the board. (IC 36-10-3-9-(d))

**II. Powers and Duties of the Board (IC 36-10-3-10 and 11)**

1. General powers to perform all acts necessary to acquire and develop sites and facilities and to conduct programs as are generally understood to be park and recreation functions.

2. Make regulations and establish rules governing the use of park and recreation facilities by the public.

3. Provide police protection for its property and activities by requesting assistance from state, city, or county police authorities, or by having specified employees deputized as police officers.

4. Acquire and dispose of real and personal property, either within or without the state.

5. Exercise the power of eminent domain under authority of any laws generally made available for this purpose.

6. Appoint a superintendent of parks and recreation who shall be qualified by training or experience. No consideration to political affiliation shall be given in his/her selection.

7. Establish standards and qualifications for the appointments of all personnel. Personnel to be recommended by the superintendent. This personnel shall be directly responsible to the superintendent.
8. Engage in self-supporting activities.

9. Prepare and submit an annual budget in the same manner as other departments of county government as prescribed by the state board of accounts.

10. May accept gifts, donations, and subsidies for park and recreation purposes.

III. Finance

The territory within the boundaries of the county comprises a special taxing district for the purpose of levying special taxes for park and recreational purposes as provided in this statute. (IC 36-10-3-19)

The county council shall determine and provide the revenues necessary for the operation of the department or for capital expenditures not covered by the issuance of bonds by:

1. A specific levy to be used exclusively for these purposes;

2. A special appropriation; or

3. Both of these methods. (IC 36-10-3-19)

Park and recreation facilities and programs shall be made available to the public free of charge as far as possible. However, if it is necessary in order to provide a particular activity, the board may charge a reasonable fee.

The unit's fiscal body (council) may establish by ordinance, upon request of the board:

1. A special nonreverting operating fund for park purposes from which expenditures may be made as provided by ordinance, either by appropriation by the board or by the unit's fiscal body; or

2. A special nonreverting capital improvements from which expenditures may be made by appropriation by the unit's fiscal body.

The unit's fiscal body shall designate the fund or funds into which the unit's fiscal officer (or county treasurer) shall deposit fees from golf courses, swimming pools, skating rinks, or other major facilities requiring major expenditures for management and maintenance. Money received from fees other than from major facilities or received from the sale or surplus property shall be deposited by the unit's fiscal officer (or county treasurer) either in the special nonreverting operating fund or in the nonreverting capital fund, as directed by the board. However, if neither fund has been established, money received from fees or from the sale of surplus property shall be deposited in the unit's general fund. Money from either special fund may be disbursed only on approved claims allowed and signed by the president and secretary of the board.

Money placed in the special nonreverting capital fund may not be withdrawn except for the purposes for which the fund was created, unless the fiscal body repeals the ordinance establishing the fund. The fiscal body may not repeal the ordinance under suspension of the rules.

The board shall have separate bonding power not in excess of 2 percent of the assessed valuation of the taxing district. Hearings shall be held. Approval of the county council is required. (IC 36-10-3-24)

The board may establish a cumulative building fund to provide money for: building, remodeling, and repair of park and recreation facilities; or to purchase land for park and recreation purposes. The board shall give notice and hold a public hearing for the taxpayers affected and before the proposed action is presented to the State Board of Tax Commissioners for approval. (IC 36-10-3-21)

Gifts, donations, and subsidies for park and recreation purposes may be accepted by the board. However, a gift or transfer of property to the board may not be made without its approval. Grantors may specify the purposes for which expenditures are made. (IC 36-10-3-18)

IV. Advisory Council

The board may create an advisory council and special committees composed of citizens interested in the problems of parks and recreation. (IC 36-10-3-17)

V. Cooperative Arrangements

1. A board may contract with another board, with a township, or a school board for the use of park and recreation facilities or for services. A township or a school board may contract with the board for the use of park and recreation facilities or for services. (IC 36-10-3-11-3)

2. Two boards operating under this act may establish a joint board. The boards desiring to establish a joint board shall informally agree upon the use of facilities, personnel, and the distribution of financial support. After informal agreement has been reached, the respective councils shall pass an ordinance embodying the terms of the agreement. (IC 36-10-3-29)

3. A joint board shall be organized and function in the same manner as a board. It shall be composed of all the members of the two boards. A joint board may create an executive committee composed of an equal number of members from each board. It shall exercise all the authority of a joint board, except a member may demand an issue to be submitted to the joint board. (IC 36-10-3-30)
VI. Sample Ordinance

ORDINANCE NO. ____________, 19__

AN ORDINANCE ESTABLISHING A DEPARTMENT OF PARKS AND RECREATION AND REPEAL OF ALL ORDINANCES IN CONFLICT THEREWITH

BE IT ORDAINED BY THE COUNTY COUNCIL of the County of ____________, Indiana:

Section I
Under the provisions of IC 36-10-3 there is hereby created a County Department of Parks and Recreation.

Section II
A Park and Recreation Board shall be composed of:
1. Two (2) members shall be appointed by the judge of the circuit court.
2. One (1) member shall be appointed by the county executive.
3. Two (2) members shall be appointed by the county fiscal body.

The creating ordinance in any county may provide for:

See alternatives for appointment of ex-officio members and insert those to be included here ...

Note: Neither a municipal executive nor a member of a county fiscal, county executive, or municipal fiscal body may serve on a board. (IC 36-10-3-4-e)

Section III
Upon establishment of the board, the terms of its members shall be as follows:
1. The appointments by the circuit court judge shall be one (1) and three (3) year terms, respectively.
2. The appointment by the county commissioners shall be for a (2) two year term.
3. The appointments by the county council shall be for two (2) and four (4) year terms, respectively.
4. The appointments by the mayor(s) shall be coterminous with the mayor(s) term of office.
5. The ex-officio officio members representing the Cooperative Extension Service and soil and water conservation district are appointed or reappointed annually if they are included in the creating ordinance.

As a term expires, each new appointment shall be for (4) year term. All terms shall expire on the first Monday in January, but a member shall continue in office until his or her successor is appointed. The appointing authorities shall make initial appoint-
ments within ninety (90) days after the creation of the department. If an appointment for any new term is not made by the first Monday in April, the incumbent shall serve another term. If a vacancy on the board occurs, the appointing authority shall appoint a person to serve for the remainder of the unexpired term.

Section IV
At its first regular meeting in each year, the Board shall elect a president and a vice-president. The vice-president shall have authority to act as the president of the Board during the absence or disability of the president. The Board may select a secretary either from within or without its own membership.

Section V
The Board shall have the power to perform all acts necessary to acquire and develop sites and facilities and to conduct such programs as are generally understood to be park and recreation functions. In addition the Board shall have all the powers and duties listed in IC 36-10-3.

Section VI
The Board shall prepare and submit an annual budget in the same manner as other departments of County government as prescribed by the State Board of Accounts. The Board may accept gifts, donation, and subsidies for park and recreation purposes.

Section VII
All other ordinances, resolutions, or parts thereof in conflict with the provisions and intent of this ordinance are hereby repealed.

Section VIII
This ordinance shall be in full force and effect from and after its passage, and approval, according to the laws of the State of Indiana.

Passed by the County Council of ____________ County, Indiana, this ___ day of ___ 19__

_________________________________________ President of the County Council of ____________ County, Indiana

Attest:

_________________________________________ Auditor of ____________ County, Indiana