

Councilor Nupp commented that he was not concerned with a kid's self-esteem, etc., but he was concerned about protecting the Town from multi-million dollar lawsuits from a parent who had a child with an injury or brain injury at the skatepark. He said the Town had a liability issue and the only sound solution was that everybody that used the skatepark, regardless of age, must wear a helmet in the skatepark or to shut it down. He offered that the skatepark could be sold to private enterprise and someone else could worry about the liability problems. He stated that it should be shut down temporarily to get a solution.

Councilor May made a motion to defer action on Ordinance No. 1152 and to send it to the Parks and Recreation Board for up to 90 days to review, revise, and develop a management plan that would include hiring park monitors to be paid for by charging admission fees at the park; he also included in the motion that the Council would direct the Town Manager to close the park during that period. Councilor Wheaton-Smith seconded the motion as stated. Councilor Ward stated she did not want so many stipulations in the motion; she asked if Councilor May would accept a friendly amendment to move to defer action to the Parks and Recreation Board for further review. Councilor May stated a rigid timeline was needed to get it resolved as quickly as possible. Councilor Ward said it was not necessary to say that they have to charge, that the Parks and Recreation Board should come back with suggestions. She did not think they needed to shut down the park. Councilor May would not accept the amendment. Councilor Nupp stated he would endorse the motion, but made a friendly amendment that it would be up to 60 days instead of 90 days because it was so popular; they did not want to punish kids that would comply, and would want to get it opened as fast as they could. Councilor May stated he could live with the 60 days. Councilor Wheaton-Smith seconded the friendly amendment by Councilor Nupp. Mayor Marshall received Councilor May's confirmation that he wanted the park closed for the 60 days, or earlier, if the Parks and Recreation Board came back to Council before the 60 days. Mayor Marshall stated that he strongly opposed the closure of the park because the liability issues had been answered regarding the Town's responsibility. He said that he had no objection to sending it to the Parks & Recreation Board for their consideration and proposal of new rules, but the Town was currently protected with the current laws, rules, and insurance that were in place, and closing it down would be making the wrong statement. There was further discussion about closing the park. Councilor Ward stated she was adamantly against closing the park.

Councilor Wheaton-Smith asked the Town Attorney if closing the park was outside the scope of the legal notice of the meeting. Attorney Scavron confirmed that it was, and stated that the Town Manager had the authority to close the park, and the Council could not change the powers of the Town Manager at that Special Council Meeting. Mayor Marshall commented that if the public had been notified that the Council would be considering closing the park at that meeting that a drastically different audience would be present. Councilor May stated that the people that had a vested interest in the skatepark were present, and did speak, but the Town needed to do something drastic to get the attention of the kids and their parents. He stated that the Council had a responsibility to the tax payers of the community and to protect their interests by making sure the Town would not get sued. He said that the tax payers paid for the park and if the kids were not going to follow the rules then it should be shut down. Attorney Scavron suggested that if the Town would challenge the kids to behave and be responsible, before closing the park on a certain date, that the kids' own self-interests may bring them to compliance. Councilor Nupp, Councilor Wheaton-Smith, and Councilor May made additional comments on how the rules have been ignored; how immediate attention to the situation was required; the importance of accountability; how a vote on the closure of the skatepark at the next Council Meeting was necessary; and how the situation at the skatepark was a crisis. Councilor May stated that he felt justified to ask that the park be shut down during the time that the Parks and Recreation Board developed a plan to operate it with some type of monitoring.

Mayor Marshall stated that they needed to deal with the motion and he would have to reject the portion of the motion that asked for the skatepark to be closed immediately because it was not noticed to the public on the agenda. He stated that if the Council wanted to declare an emergency and deal with something in a different manner, they would have to do that on a later date. Councilor May stated that he was putting the Mayor on notice that if he declared it to be out of order, and a serious accident occurred before a decision was made on closing the park, that he thought the Town would be liable and he wanted no part of it. He stated that he felt that they were setting themselves up.

Councilor May stated that he would withdraw the part of the motion about closing the park during the interim, if Councilor Wheaton-Smith agreed, but he would continue to ask that they defer Ordinance No. 1152 to the Parks and

Recreation Board for up to 60 days to review, revise, and to develop a management plan that would work, and protect the Town's liability. Mayor Marshall announced that there was a new motion to defer action on Ordinance No. 1152 and refer to the Parks and Recreation Board with a 60 day timeframe. He asked if that was correct, and Councilor May stated it was correct. Mayor Marshall asked for a second, and Councilor Nupp seconded. Councilor Wheaton-Smith stated that he had not yet withdrawn his second to the first motion. There was further discussion. Councilor Nupp withdrew his second to the motion. Councilor Wheaton-Smith seconded the motion as stated. He commented that he would consider in the next week or so with Councilor May addressing resolution to be on the immediate next Council Meeting to legitimately close the skatepark, and he would view how he considered that based on his personal observations in the next week at the park on the percentage of people wearing helmets. Councilor Nupp asked the newspapers to emphasize Councilor Wheaton-Smith's comments because he agreed with him and they wanted the message to be conveyed so the citizens and kids would comply. Attorney Scavron reminded the Council that the Town Manager had the legislative authority to close the park at any time. Chief Reynolds stated that the Town Manager had the power to enforce the rules with a criminal trespass.

Councilor May called for the question. Mayor Marshall announced that there was a motion and a second, and there would be no further discussion on deferring action on Ordinance No. 1152 and referring it to the Parks and Recreation Board with a 60 days deadline to come back with recommendations. He asked if it was correctly stated. Councilor May and Councilor Wheaton-Smith said it was. All were in favor, motion passed.

ADJOURNMENT – Councilor Wheaton-Smith made a motion to adjourn at 7:10 p.m. Councilor Nupp seconded the motion. All were in favor, motion passed.

/s/

James R. Marshall, Mayor

Attest:

/s/

Ann L. Mackie, Town Clerk