



CITY OF SANTA BARBARA
PARK AND RECREATION COMMISSION REPORT

AGENDA DATE: December 17, 2008

TO: Park and Recreation Commission

FROM: Recreation Division, Parks and Recreation Department

SUBJECT: Recommendations for Regulating Commercial Activities in City Parks and Beaches

RECOMMENDATION: That the Commission receives additional information on permitting of certain activities in various parks and policy options for regulating commercial activities in City parks and beaches, and provide policy direction to staff.

DISCUSSION:

Executive Summary

“Boot camp” exercise programs held in outdoor venues, typically parks and beaches, are a current trend in physical fitness today. At their September 24, 2008, meeting, the Park and Recreation Commission heard from staff and park users about challenges resulting from the influx of these types of activities in City parks. Issues such as regulation, permit fees, impacts to certain parks, coordination of such activities with other park users, and competition between various vendors/businesses for prime locations such as Shoreline Park were identified.

Considerations included identifying specific locations within particular parks for the activity, establishing permit requirements for how the activity is conducted to minimize negative impacts on other park users, and limiting the frequency that the activity is scheduled in any one location. Another issue was access and fairness, given the intense competition between the various companies for specific park locations, such as Shoreline Park which continues to be the venue in highest demand.

Three options were proposed to better regulate these activities including development of a comprehensive commercial activities policy with new limitations and a permit lottery system to insure a fair and equitable process; requiring the commercial businesses to become independent contractors with the City; and, expanding the Department’s vendor licensing program to include specific park locations for these types of recreation/fitness programs.

The Commission asked staff to return with additional information and to hold a meeting with the business operators to discuss options. Additional information on park zoning, gender equity, and fees are presented in this report. Two meetings were held with the operators, with consensus support for continuing the current permitting process, with new limitations, and a lottery system to insure a fair and equitable process. There was no support for the other two options, becoming an independent contractor with the City or establishing a vendor license agreement. A lottery style permit system is proposed.

Defining Commercial Activity in City Parks

In developing policy recommendations, it became clear that a definition was needed for what types of commercial activities would be appropriate for permitting.

Recommendation: Adopt the following language related to permitting of commercial activities in City parks:

Commercial Activities – Activity is described as recreational in nature, consistent with the mission of the Parks and Recreation Department. The activity consists of multi-session classes, offered by a vendor which is not otherwise affiliated through the Parks and Recreation Department.

Appropriate Park Locations for Commercial Activities

During the September meeting, the Commission asked for more information on the zoning of parks and whether different types of activities were or were not allowed in differently zoned parks.

The Municipal Code designates specific park categories within the Park and Recreation (PR) Zone. The categories include Undeveloped, Open Space, Passive Parks, Neighborhood Parks, Beach, Community Parks, Sports Facilities, Community Buildings and Regional Parks. A list of how the various City parks are classified according to the Municipal Code is included in this report (Attachment 1). Undeveloped, Open Space, and Passive Parks specifically restrict organized recreational activities, and are not appropriate for permitting of active recreation, whereas Neighborhood Parks, Beach, Community Parks, and Sports Facilities do not have this restriction.

Neighborhood Park - Neighborhood parks are defined as small parks that typically serve a limited geographic area and nearby population. Bohnett, Eastside, Plaza Vera Cruz, La Mesa, and Stevens are 5 examples of neighborhood parks. Many parks in this category have playgrounds and picnic areas. Occasional special events are permitted.

Community Park - Community parks are usually larger than neighborhood parks and allow for multi-uses, such as special, pre-arranged activities and special events. Community parks serve a concentrated or limited population or specific group from a wide geographic

area of the City. Alameda, Chase Palm, Oak, Ortega, and Shoreline are 5 examples of community parks. It is not uncommon for parks in this category to have playgrounds, ball fields, and courts with scheduled activities, park rental use, and public special events.

Beach – Beaches are areas that provide access to the ocean and sand areas for passive and active recreation. Leadbetter Beach and Park, East Beach and Park, and West Beach are designated Beach. It is not uncommon for these parks to have playgrounds, picnic areas, grass as well as sand, and public special events.

Sports Facilities – Sports facilities are defined as outdoor facilities where intense recreational activities and outdoor sports and tournaments occur. Dwight Murphy, Cabrillo Ballfield, and MacKenzie Park are three examples.

Recommendation: Staff proposes that these types of commercial activities generally be permitted in parks zoned Neighborhood Park, Beach, Community Park, and Sports Facilities.

Guidelines for Determining Appropriate Park Venues for Different Activities

Several parks, and specific areas within those parks, have been identified as appropriate for commercial activities. However, similar to how other park uses are permitted, staff will determine the most appropriate park location based on consultation with the business owner, the activity, and consideration of each unique setting. A variety of factors will be considered, including the type of activity, noise level, number of participants, equipment requirements, mobility or movement within the area or park, hours of similar activities per day or week in that park location, concurrent park uses, neighborhood impact, etc.

The following chart identifies park venues and activity participation guidelines which staff believe are most appropriate for permitting of commercial activities. Other locations may be considered on a case-by-case basis, and staff will also have the option of limiting the number of participants for the “20+ participant locations” based on the factors listed above. Proposed fees are discussed in the next section of the report.

Park or Beach	Location	Group Size	Proposed Fee
NON-WATERFRONT LOCATIONS			
Alameda Park West – Gazebo side	Quadrant of grass bordering Santa Barbara Street	20+ participants	\$20/ hour RDC \$24/ hour NR
Alameda Park East – Kids’ World side	Quadrant of grass bordering Santa Barbara Street	20+ participants	\$20/ hour RDC \$24/ hour NR
Dwight Murphy Field – Exercise Area	Including grass area in left field at Ninos Drive and Por La Mar (sunrise – 12 noon only)	20+ participants	\$20/ hour RDC \$24/ hour NR
La Mesa Park – Grassy Area	Open grassy area east of group picnic area	1 – 20 participants	\$20/ hour RDC \$24/ hour NR

Park or Beach	Location	Group Size	Proposed Fee
Mackenzie Park – Alternate Grassy Area	Alternate grassy area between Bronco ball field and Youth Building	20+ participants	\$20/ hour RDC \$24/ hour NR
Oak Park – Stage Area	Area of park with the wooden stage	1 – 20 participants	\$20/ hour RDC \$24/ hour NR
WATERFRONT LOCATIONS			
Chase Palm Park – Plaza Area	By Carousel	1 – 20 participants	\$25/ hour RDC \$30/ hour NR
Chase Palm Park – Soccer Field	On the ocean side of Cabrillo Boulevard (sunrise – 12 noon only)	20+ participants	\$25/ hour RDC \$30/ hour NR
East Beach – Cabrillo East	On sand next to Cabrillo East parking lot and by kids' playground	20+ participants	\$25/ hour RDC \$30/ hour NR
Leadbetter Beach – Beach Area West	On sand close to Leadbetter Point	1 – 20 participants	\$25/ hour RDC \$30/ hour NR
Plaza Del Mar – Grassy Area	On grass near band shell	20+ participants	\$25/ hour RDC \$30/ hour NR
Shoreline Park – Alternate Area	Grassy area by La Marina Drive	1 – 20 participants	\$25/ hour RDC \$30/ hour NR
Shoreline Park - West	Grassy area by Kids' Playground	1 – 20 participants	\$25/ hour RDC \$30/ hour NR
West Beach	On sand west of volleyball courts	20+ participants	\$25/ hour RDC \$30/ hour NR

Park Permit Fee Recommendation

Staff recommends that the current fees of \$15 per hour for City residents and \$18 per hour for non-residents be increased to \$20 per hour and \$24 per hour respectively for non-waterfront locations, and \$25 per hour and \$30 per hour respectively for waterfront locations. The non-waterfront fee range is slightly lower than what other cities have imposed, based on the survey provided in the September report while the waterfront location fee is right in line with what other cities charge.

General Conditions of Use for Permitting Commercial Activities

Each park permit contains specific Conditions of Use for the conduct of the activity. General permit conditions for commercial activities will include the following:

1. Permittee must have a current City business license.
2. Permittee must provide the City with a \$1M general liability insurance certificate, listing the City of Santa Barbara, its officers, employees, and agents as additionally insured.
3. Permittee is not allowed to have amplified music or sound.
4. Permit must be clearly displayed during the activity, visible to passersby.
5. No large equipment may be brought into the park/beach.

6. Failure to comply with Conditions of Use may result in denial of future permits.

Additional conditions may be imposed to address courtesy to other park users, use of public sidewalks, movement around the park, equipment set up, etc.

Proposed Permitting Process

Three permitting options were originally presented for consideration in September, including, 1) a defined permitting process with lottery to insure equal access by all interested vendors, 2) requiring commercial vendors to become aligned officially with the Parks and Recreation Department as independent contractors, and 3) establishing vendor licenses in specific locations which would be awarded through the standard City bid process.

Recommendation: Based on discussion at the September meeting, option 2 was eliminated as a requirement, but will continue to be available to all vendors as desired. Option 3 was eliminated for consideration due to a lack of interest by the business operators at two meetings to discuss options. Therefore, staff has moved forward with option 1, developing a specific permit process supported through a lottery award system.

Lottery System to Provide Equal Access for Favored Locations

Staff and business owners discussed the development of a lottery system that would be simple to manage for staff and work well with how operators promote and schedule their classes. Permits will be issued for a six-month period as it was determined that this length of time will make the process less labor intensive for staff and give business owners adequate time to plan and promote their classes. Applicants will submit their requests by the required date, listing their first, second, and third location choices, and indicating the days and hours they want. Staff will randomly draw permit applications and schedule as choices are available. This process will be evaluated over time to insure fairness and efficiency needs are met.

Grandfathering Certain Activities

The Commission expressed interest in guidelines for grandfathering certain activities based on past use of certain parks. Staff advises against this, since developing criteria for establishing such a consideration is not easily determined due to the history of different programs, some of which have not been permitted in the past. Instead, staff believes that the intent of providing certain programs, like Tai Chi, continued access to La Mesa Park on Saturday mornings will be met through the current process as business owners attending our meetings have expressed a desire to work with one another.

Gender Equity and Non-Discrimination Policy

At the September Commission meeting, the issue of discrimination on the basis of gender was brought up during public comment and through written communication to the Commission by one of the businesses. Is the City required to provide equal access to various park locations based on whether the activity is co-ed or serves primarily men or women? Staff consulted with the City Attorney who indicated that the Unruh Act of the California Civil Code applies to all commercial activities using City parks under permits. The Unruh Act states as follows:

"All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever."

The application of the Unruh Act does not mean that the City must provide equal access to certain park locations based on who is served through the program, as long as the process to award the permits is fair and equitable to all. It does mean that a business operating in a City park or facility cannot exclude one gender or the other from their activity.

Staff Recommendation

In summary, staff recommends proceeding with implementation of a lottery based system to award permits for commercial activities in parks, as described in this report. It is further recommended that the proposed fees of \$20 per hour for residents and \$24 per hour for non-residents for non-waterfront locations, and \$25 per hour and \$30 per hour for waterfront locations be adopted. Staff will return to the Commission in one year with a review of the program and any suggestions for improving the permitting process for conduct of the activities in certain park facilities.

ATTACHMENTS: 1. Park and Recreation Zone from the City Municipal Code
2. Map of Specific Parks and Beaches Designed for Commercial Activities

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APPROVED BY: Nancy L. Rapp, Parks and Recreation Director