



CITY OF SANTA BARBARA
PARK AND RECREATION COMMISSION REPORT

AGENDA DATE: September 24, 2008
TO: Park and Recreation Commission
FROM: Recreation Division, Parks and Recreation Department
SUBJECT: Regulating Commercial Activities in City Parks and Beaches

RECOMMENDATION: That the Commission hears a report from staff regarding the regulation of commercial activities occurring in City parks and beaches, take public comment on the issue and provide direction to staff on the proposed plan of action.

DISCUSSION:

Executive Summary

“Boot camp” exercise programs held in outdoor venues, typically parks and beaches, are a current trend in physical fitness today. This new industry has presented several challenges to the Department, including 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. Based on the proliferation of these activities and the many complaints received from park users, Department staff has determined the need to take a more active role in regulating these kinds of commercial uses of public park space.

Staff considered how to best manage these multi-session activities, other cities’ practices, impacts to staff workload, enforcement and potential revenue to the Department. Three options are 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.

Staff recommends that a combination of two options be implemented – developing a commercial activities policy with permit lottery system and expanding the Department’s vendor licensing program. Department staff seeks direction from the Commission on the proposed plan of action.

Background

A hot trend in physical fitness today is “boot camp” type exercise programs held in outdoor venues, typically parks and beaches. This phenomenon is occurring in communities all over the United States. People are choosing to leave the confines of an indoor gym and participate in those same activities in an outdoor environment. Classes typically meet 2-5 times per week and are held primarily between the hours of 6:00-9:00 a.m. and 5:00-8:00 p.m.

This outdoor fitness boom has hit Santa Barbara, and many private trainers and for-profit fitness companies have responded by choosing to offer classes in City parks and beaches. The Parks and Recreation Department supports the efforts of its citizens to get fit and healthy and the public’s use of parks and beaches for these purposes. However, this new industry has presented several challenges to the Department, including 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. This issue is currently being addressed in many communities which are experiencing the same increase in such activities in parks and beaches.

City Regulations on Commercial Activities in Parks and Beaches

The City of Santa Barbara Municipal Code Section 15.16.010 requires that any person practicing, carrying on, conducting or soliciting for any occupation, business or profession in any City park or beach have a business license and a permit with the City. Over the years the Department has occasionally issued permits for multi-session classes or camps run by commercial or non-profit entities, such as surf camps at Leadbetter Beach or day camps at La Mesa Park. With the proliferation of “boot camps,” and as the Department has become aware of such groups operating in our parks, these people have been approached and informed of the requirement to secure appropriate permits. While some of these individuals and companies have complied with City regulations and obtained a park permit for their commercial activity, many have not. The Department is aware of approximately 10 businesses operating in City parks. Monitoring and enforcement have challenged available staff resources.

Boot Camp Programs Overwhelm Shoreline Park

Shoreline Park has been the most impacted by these types of commercial fitness programs. Staff estimates that fitness classes were being held in Shoreline Park for as many as 4-6 hours per day, until the recent moratorium went into effect. This issue first came to light through meetings held with Shoreline Park neighbors and park users over the past year or so related to homeless issues, squirrel population control, and bluff erosion. At each of these meetings, staff heard complaints regarding the increase in

these types of classes in the park. In addition, a great number of emails and letters were received complaining that the park was beginning to look “like a gym”, that class activities were interfering with walkers and other park users, questioning whether these were permitted activities, and whether or not this commercial activity was an appropriate use of the park.

Permitting of Commercial Activities

The Department determined the need to take a more active role in regulating these kinds of commercial uses of public park space. Initially, staff took a soft approach in attempting to reign in these unpermitted activities by having park monitors educate business owners about City regulations and the permitting requirement. Several complied with getting a permit, others were resistant, often relocating to other parks areas only to be approached once again.

The Department soon realized that a more definitive policy was needed in order to better regulate the impact that these commercial, multi-session classes and activities were having on scheduled park activities, park rentals and drop-in park users. There was a need to establish specific locations within particular parks for the permitted activity, requirements for how the activity would be conducted in order to not negatively impact other park users, and limits on the frequency that the activity was 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.

It should be noted that these types of permitting issues are not different from how the department typically handles other types of park permitting, such as weddings, private parties or special events. Permits commonly specify particular locations and conditions of use. Staff routinely considers impacts to other park users and frequency of activities or events in that location prior to issuing a permit.

In July 2008, the Department put a moratorium on issuing any new permits for this type of activity at Shoreline Park until a more definitive policy on commercial activities could be developed. As permits expired vendors were encouraged to move to other parks, and the department restricted the number of permits issued for any one park. Several program participants spoke at the July 2008 Park and Recreation Commission meeting. Their concerns were that they were being denied a permit for Shoreline Park and that their fitness programs were being restricted. Staff informed the Commission that they were developing policy options to address the various issues, and that they would return to the Commission in September with their recommendations.

Current Fee Structure

The current fee for private businesses to conduct commercial classes and activities in a City park or beach is \$15/ hour for residents and \$18/ hour for non-residents. These fees were established 6-7 years ago in response to an increase in surf camps being conducted at Leadbetter Beach during the summer, and have been relatively unchanged since that time. Approximately 1-2 permits have been issued each year at this fee structure. Several members of the community have questioned whether this fee is appropriate given that these are businesses using public property for private gain.

For comparison purposes, a private dance instructor renting a dance studio in the Carrillo Recreation Center would pay \$41 per hour. Although the activity is larger, perhaps another comparison might be the popular Night Moves program which is held each Wednesday evening 19 weeks from May - September of each year. Operated by a private business owner, a City permit is issued at a cost of \$300/event or \$5,400 for the season. Over the years, the City has denied requests by the event organizer to subsidize the event or waive fees due to the fact that this is a private business, not a non-profit program.

What Other Cities are Doing

Part of the process staff undertook in developing this proposal was talking to other cities to see how they handle commercial activities in their jurisdictions. Other cities are experiencing the same proliferation of commercial fitness classes in their parks and beaches and are struggling with how to better regulate these activities. Here are a few highlights from other communities:

- The cities of Ventura and Thousand Oaks charge \$25/ hour with Ventura limiting classes to non-neighborhood parks.
- The cities of Beverly Hills, Santa Monica, Long Beach and Newport Beach have required such programs to operate through the Parks and Recreation contract class program, with the cities retaining 30–40% of fees collected. Additionally, Newport Beach limits the number of independent contractors based on public demand for classes. When they have reached their capacity, they charge these commercial businesses \$155/ hour for residents \$309/ hour for non-residents to operate in a park.
- On a local level, Santa Barbara City College has experienced this same proliferation at La Playa Stadium. Using an existing fee structure, they charge \$25/ hour and strictly limit the number of permits as these classes conflict with their own scheduled activities. City College expressed interest in modeling their fees for this type of activity based on what the City develops.
- The City of Santa Cruz was the only city with a new commercial activities policy in place. They charge \$500/ year for commercial activities taking place on their beaches (mainly surf classes) and 10% of the gross sales for activities taking

place in parks with the vendor completing a gross sales form and submitting payment each quarter.

- The City of Encinitas has recently been looking at establishing new policies that address the large number of surf camps that operate on their city beaches. In a recent City Council meeting, staff recommended that council approve the issuance of a RFP for these surf camps just as the Department does with kayak and outrigger vendor licenses at East and West Beaches. The Encinitas City Council gave staff the direction to return in the future with a number of options for them to consider to regulate the impact of these camps.

Please see the Attachment for a more information gathered from other cities.

Options for Regulation

Three options have been developed for Commission consideration in order to better regulate commercial activities in Santa Barbara's parks and beaches. One or more of the options may be implemented.

The first option is to continue to issue park permits to commercial activities but develop new policies defining terms and conditions of the permit (frequency, co-existence with other park uses, etc.) and a lottery system for awarding permits for highly desired venues. The second option would require businesses to enter into an independent contractor agreement with the Department. The third option is to issue vendor licenses through a Request for Proposal (RFP) process for 2-3 of the most requested park locations.

OPTION #1: COMPREHENSIVE COMMERCIAL ACTIVITIES POLICY- NEW LIMITATIONS AND LOTTERY SYSTEM

The Department currently issues park permits for those conducting multi-session classes or activities on a first come, first served basis. There has been no need to set any limitations as long as park rules and hours were obeyed. There is a need to set these limitations now.

Limits are proposed on, 1) the number of classes per day, 2) the class size, 3) the hours of use, and 4) the park and beach locations where classes can be held. A lottery system would be implemented to provide a fair and equal opportunity for all the businesses to use particular locations such as Shoreline Park.

Although this option does appear to be simplest one, staff has determined that it would be very labor intensive on an on-going basis given the number of groups applying for permits and the complexity of the class schedules. The current fee structure would not cover the increased staff time required for this option. Current staffing would not support this increased service.

OPTION #2: INDEPENDENT CONTRACTOR STATUS

The second option is to require that all recreation type class activities and programs held in City parks be offered through the Parks and Recreation Department contract class program. Interested instructors or businesses would become independent contractors with the City. The Department would handle marketing the class through our Activity Guide, registering participants, and collecting fees. The instructor/business would conduct the class. Revenue would be split according to percentage dictated within the contract to compensate for use of City property and City services associated with the program.

The Department currently has contracts with many independent contractors who teach classes in dance, dog obedience, yoga, fitness, tennis, beach volleyball and ceramics. In the majority of cases, the Department retains 35% of the class fee, and the instructor receives 65%.

This option would potentially generate more revenue than Option #1. Procedures are in place for the registration for other classes/activities the Department offers, so the increase in work load would not be significant. Those instructors/businesses who weren't interested in becoming independent contractors would not be issued a City permit and would need to find other non-City locations in which to conduct their businesses.

It should be noted that staff routinely encourages businesses and individuals conducting recreation activities in our park to consider becoming associated with the Parks and Recreation Department contract class program, however there has been little interest to date.

OPTION #3: VENDOR LICENSES

The third option is for the Department to expand its vendor licensing program on City beaches to include specific park locations for recreation/fitness programs. Currently the Department is authorized for 2 vendor licenses for kayak and outrigger rentals at East and West Beaches.

The department would identify specific park locations appropriate for specific types of recreation/fitness activities to be licensed, with terms and conditions related to the conduct of the activity. Through a competitive process in line with existing City bidding processes, a Request for Proposals (RFP) would be issued and the vendor license would be awarded to the highest bidder who meets the criteria. The licensing contract would specify terms such as requirements, location, payments and length of contract.

The benefit of this option is that it allows the vendor to operate his/her business the way they wish as long as City conditions are met. This option would likely provide the greatest revenue potential for the Department with the least amount of workload, given that the bid process would be conducted annually.

Specific park locations would be designated, most likely in those parks already identified as prime venues, including Shoreline, La Mesa, Alameda and Leadbetter. Other park locations could be added over time.

The kayak and outrigger vendor licenses at East and West Beaches provide valued recreation services to the public, have proven to be easy to administer, provide a stable revenue stream to the department, and have been successful for the vendors as well.

Enforcement

To easily identify groups that are permitted to conduct these types of activities in City parks, groups are required to keep their permit on display at all times while they are conducting classes. Those groups without a permit are contacted by Park Monitors and Park Rangers and informed of the City policy, instructed to apply for a permit at the Parks and Recreation office and warned if they continue to operate without the required permit that they will be cited in the future. No citations have been issued to date.

To effectively implement any of the options presented above, the Department needs to enhance monitoring and enforcement efforts. Park Monitors and Park Rangers will continue to give one verbal warning to each group. People will be asked to stop their activity and leave the park. If spotted without a permit the second time, a citation would be issued to the person conducting the activity (instructor or business owner). Current fines for conducting a commercial activity in a City park or beach without a permit are \$395 for the first violation, \$770 for the second, and \$957 for the third offense. (These fees include the base fine and court assigned penalties and fees, according to the City Attorney's office.)

Interim Policy

To allow the Commission time to evaluate options and determine appropriate policy, and for the Department to implement the recommended policy, an interim process has been implemented. The moratorium on permits at Shoreline Park will continue until a new policy is determined. Three permits have been issued for La Mesa and Alameda parks, and the Calle Cesar Chavez location in Chase Palm Park. Permits have been limited to 60-day time spans. Permits will continue to issued on a first-come, first-served basis.

Staff Recommendation

In developing this recommendation staff considered how to best manage multiple activities in City parks, establishing a fair and equitable process, impacts to staff workload and potential revenue to the Department.

Staff recommends that a combination of options #1 and #3 be implemented. While certainly an option, Staff does not believe that it is necessary or appropriate that all recreational type activities which are conducted in City parks should be conducted under the City's auspices, except as required for permitting. Additional recommendations include:

1. Develop appropriate policy guidelines for the conduct of these types of recreational/fitness programs in City parks.
2. Establish 2 – 3 vendor licenses for specific locations in certain parks, including Shoreline and La Mesa.
3. Develop a lottery drawing for groups wanting to acquire permits for the remaining parks and beaches deemed appropriate for these types of activities.
4. Increase the fee structure to better reflect use of public property for private gain.

Next Steps

Based on Commission direction, staff will return at the October meeting with a draft policy for approval.

ATTACHMENT: Commercial Activities in other California Cities

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