



Memorandum

TO: NEIGHBORHOOD SERVICES
AND EDUCATION COMMITTEE

FROM: Jon Cicirelli

**SUBJECT: COUNCIL PRIORITY #24:
REPORT ON FOOD AND CLOTHING
DISTRIBUTION AT CITY PARKS**

DATE: May 28, 2019

Approved

Date

6/5/2019

COUNCIL DISTRICT: ALL

RECOMMENDATION

Accept the Department of Parks, Recreation and Neighborhood Services' report on City Council Policy Priority #24: Food and Clothing Distribution at City Parks.

OUTCOME

This report provides the Neighborhood Services and Education Committee with updates on food and clothing distributions within the park system, with an emphasis on St. James Park as a pilot location.

BACKGROUND

The Parks, Recreation and Neighborhood Services (Department) strives to build and cultivate healthy communities through quality programs and dynamic public spaces, and through people, parks, and programs. The Department's reach extends beyond parks, trails, community centers and programs, and touches the lives of people from different backgrounds and communities. In some parks, community groups offer assistance and resources to those in need through unpermitted food and clothing distribution events. These activities provide important resources to the San José community, but also create frustrations within the community regarding the way the events occur.

The Department has observed that many organizations conduct food and clothing distribution events without a permit, especially in downtown parks. From discussions with these organizations, staff has learned that many of them are unaware that they must obtain a permit to hold their events, while some refuse to go through the process of obtaining a permit. The Department has been exploring many different approaches, methods, and solutions to encourage organizations to apply and obtain a permit to hold an authorized event.

While these unpermitted organizations are well meaning, without the standard Special Park Use pre-event planning process, staff finds that organizations are unaware of their obligations. Consequently, some events generate a substantial amount of trash, block pedestrian walkways, create ingress and egress issues, potentially provide unsafe, non-inspected food, and foster an unwelcoming park atmosphere for some members of the community.

On September 9, 2014, City Council prioritized and ranked this topic, now Policy Priority #24, and directed the Department to review and update the Municipal Code policy regarding the distribution of food and clothing at City Parks¹. The Department uses the Community Special Events Ordinance (No. 29419) to determine the pricing structure for permitted events within park grounds. Food and clothing distribution at city parks, however, was an activity that did not fall under the ordinance language, which made it an unpermitted activity.

On December 3, 2014, the Department submitted a memorandum to the Parks and Recreation Commission outlining a proposed solution to food and clothing distribution events (Item VI.B). The recommendation was to “develop comprehensive regulations to address the public distribution issues of both food and clothing [while]...continuing to operate under the current Park Rule No. 2, which prohibits the distribution of food items or articles of clothing to the general public, except as part of a special event for which a permit has been issued (through the Special Park Use Unit)².” That language was excluded from the adopted Community Special Events Ordinance due to the sensitivity about these distributions. Since then, the Department has continued to work to identify an approach that is supportive of these events while maintaining the integrity of both the event application process as well as the park sites.

In response to this priority, staff has reviewed other cities and the procedures they use for food and clothing distribution activities in their parks. These agencies included the cities of Mountain View, Sunnyvale, Milpitas, San Francisco, Santa Clara, Sacramento, Santa Monica, Boston, Phoenix, Las Vegas, and Seattle. Staff found that this issue has no simple solution. Some cities have a permitting process for these types of events, while other cities do not. Staff has also conducted outreach with some of the organizations that coordinate the distribution activities to learn and find alternative ways to ensure these activities are permitted.

ANALYSIS

Special Park Use Permit

Currently, any organization that requests to organize food and/or clothing distribution events within the City’s park system must obtain a permit to do so. This is a standard process and

¹ Council Policy Priorities. Retrieved from: <http://sanjoseca.gov/DocumentCenter/View/34463>

² Community Special Events Ordinance Update (Parks and Recreation Commission – 12/3/2014). Retrieved from: <http://www.sanjoseca.gov/documentcenter/view/37630>

procedure that any event organizer must follow to utilize a park for a special event. The permitting process exists for many reasons, such as ensuring adequate insurance coverage by event organizers, protecting the parks from damage and blight, and keeping a fair and consistent process. In compliance with City Council Policy 1-21³, the Pricing and Revenue Policy, the Department Director may recommend that the City Manager modify the process for organizations to obtain a Special Park Use permit for distribution activities for this pilot.

Through staff evaluation of this topic, the Department has concluded food and clothing distributions should be considered “activities” instead of “events”, and consequently be priced and structured under such regulations. The fee is lower for an activity than a typical special event permit because these events require less space and fewer amenities. Currently, the permit fee for a “Small Event” for a non-profit organization is \$550 per event. The permit fee for an activity can be as low as \$100 for less than 100 people. This may include the collection of a refundable deposit to ensure the park is left in the original condition.

The Cleaning/Damage Refundable Deposit covers events and reserved park activities that are less than four hours (excluding set-up and take down time), and will involve less than two tables and four chairs, while also allowing for the distribution of food and beverages. The permit for these distribution activities can also include a requirement to provide a cleaning/damage deposit amount that is based on the expected size of the event. Organizers are able to receive their deposit back once the last activity on their application is completed and staff are able to confirm no damages or cleaning was needed. This deposit is only refundable to the organization if the park area is left without litter, or no damage were done to the area or amenities used. The cleaning/damage deposits for an activity start at \$250 for up to 200 people.

St. James Park Pilot Program

Beginning in July 2019, staff is moving forward with piloting an alternative food and clothing distribution site near St. James Park that will be open to provide food on weekends and on Wednesdays, which are days that typically have less community food offerings in the area. To this end, Opening Doors 2020 has been awarded a grant for the pilot program to provide nutritious meals at a nearby city-owned facility currently operated by the African American Community Services Association (subject to Santa Clara County health codes and inspections), and monthly homeless services, including clothing distribution and informational services.

This pilot has three principles: 1) “Re-Direction” of resources by giving the homeless individuals and providers a consistent location for services; 2) “Education” of stakeholders with information on nearby available food distribution locations, park rules, and ways that community members can assist those in need; and 3) “Enforcement” of ordinances, park rules and other obligations to discourage unpermitted distribution events.

³ Policy 1-21: Pricing and Revenue Policy. Retrieved from: <http://www.sanjoseca.gov/DocumentCenter/View/3850>

While the pilot program may not eliminate the unpermitted food and clothing distribution events at St. James Park, it will provide resources for volunteer management and encourage groups and organizations now distributing at St. James Park to move their unpermitted event to the alternative location. Opening Doors 2020 will have staff available every weekend at St. James Park, and will connect with and inform community-based organizations about how to help. The Department will collect baseline survey data from the residents around St. James Park prior to the start of the pilot and at the end of Year 1. Staff will report this information back to this Committee and any lessons learned following the first year of the program.

In alignment with Santa Clara County's policies, the organizers are required to furnish a County Health Permit or waiver to ensure the organization is complying with Santa Clara County Department of Environmental Health's regulations related to safe food preparation and handling. This is a standard requirement for any event that involves the distribution of food. This is necessary because improperly handled food poses a potential health risk for an already disadvantaged population. Staff will work towards creating more tangible and digital resources to inform the community on their options and procedures for food or clothing distribution in parks.

Anticipating that some organizations may continue to violate the City's ordinances, the Department will work with the City Attorney's Office to explore the potential for increasing the fine associated with violating park rules and will coordinate with the City Manager's Office and City Attorney's Office on any further recommendations to the Mayor and City Council. The Department also anticipates revisiting resolutions and ordinances related to these types of activities to align the thresholds in a more concise manner after the one-year pilot.

Mobile Vendor Policy

In addition to the structure for food and clothing distribution permitted events, new ordinances and laws have been introduced for mobile vendors. On May 13, 2019, the San José Police Department and City Attorney's Office submitted a memorandum⁴ to the Community & Economic Development Committee proposing a revision to Chapter 6.54 of the San José Municipal Code to align and comply with the language introduced by the State of California in Senate Bill 946. The Senate Bill requires local jurisdictions to allow for and support "sidewalk vendors" and lays out certain guidelines and regulations. The San José Police Department and City Attorney's Office drafted revisions to the Peddler Permit Ordinance and submitted it for consideration to the Committee, and plan to come before City Council in August 2019. This ordinance, however, will be separate from the process outlined in this memorandum.

⁴ Mobile Vendor Policy Update Memorandum. Retrieved from:

<https://sanjose.legistar.com/View.ashx?M=F&ID=7223258&GUID=B9CA7605-75BF-4642-A1EF-D5B7A81989B1>

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PUBLIC OUTREACH

This memorandum will be posted on the City's website for the June 13, 2019 Neighborhood Services and Education Committee meeting.

COORDINATION

This memorandum was coordinated with the City Manager's Office, City Manager's Budget Office, and City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

There is no commission recommendation or input at this time. There is likely to be coordination in fall 2019 with the Parks and Recreation Commission as the policy and solution options are developed.

CEQA

Not a project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

/s/
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For questions, please contact Justin Long, Deputy Director, at (408) 535-5579.