



COUNCIL AGENDA: 06/23/20

FILE: 20-705

ITEM: 5.4

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: John Ristow

SUBJECT: SEE BELOW

DATE: June 1, 2020

Approved

Date

6/12/2020

COUNCIL DISTRICT: 3

**SUBJECT: RETROACTIVE APPROVAL OF SUSPENDED PARKING OPERATIONS
AND AMENDMENTS TO VARIOUS PARKING AGREEMENTS AND
THE MASTER PARKING RATE SCHEDULE**

RECOMMENDATION

- (a) Adopt a resolution to amend the Master Parking Rate Schedule to (1) Retroactively approve suspended parking operations which provided for free daily parking within the City's downtown public lots and garages; and at on-street meters through June 30, 2020 and delegate authority to the City Manager on specific timing to resume paid parking operations; and (2) update parking programs and rates which will support downtown businesses through a recovery period and in a post COVID-19 environment.
- (b) Adopt a resolution authorizing the City Manager to negotiate and execute amendments to parking agreements with various downtown businesses, government agencies, taxi companies, and car share vendor to provide temporary financial relief which may include:
 - (1) reduction or waiving of monthly parking fees with repayment terms subject to negotiations with a not to exceed value of 50% of the agreements monthly value; (2) waiving of late fees; and (3) extending term length.
- (c) Direct Staff to review options and return to City Council with recommendations on a potential parking citation delinquent fee amnesty program.

OUTCOME

Approval by City Council of the suspended parking operations and the delegation to negotiate and execute the various parking agreement amendments to the City Manager, will ratify actions taken by Staff in the beginning stages of the City's pandemic response, and allow the City's parking operations to respond moving forward to the changing environment and operational requirements in a post COVID-19 environment.

BACKGROUND

The proposed actions are prompted by the remarkably rapid developments in the recognition of and reaction to the COVID-19 pandemic. Some major milestones over the past months include:

- On March 4, 2020, Governor Newsom issued the Proclamation of a State of Emergency (“Governor’s Proclamation”) under Section 8625 of the California Government Code and the California Emergency Services Act, establishing the existence of a state of emergency throughout California due to COVID-19.
- On March 9, 2020, County of Santa Clara Public Health Officer Dr. Sara Cody (“County Health Officer”) officially announced the issuance of a legal Order requiring cancellation of mass gatherings (public or private) consisting of more than 1,000 persons and published new recommendations to help protect residents from COVID-19.
- On March 13, 2020, County Health Officer officially announced a new legal order imposing a mandatory countywide moratorium on gatherings of more than 100 persons, and a conditional countywide moratorium on gatherings of between 35-100 persons, to mitigate the spread of COVID-19; and statement on school closure.
- On March 15, 2020, Governor Gavin Newsom recommended home isolation for all seniors 65+ years in age and those with chronic health conditions. He also directed all bars, nightclubs, wineries, and breweries temporarily close.
- On March 16, 2020, the County Health Officer issued a further Order directing all residents to remain at their place of residence through April 7, except to conduct Essential Activities, Essential Businesses, and to operate Essential Infrastructure (as defined in the Order).
- Effective March 19, 2020, Staff suspended the City’s parking operations and effectively provided free parking in the City’s lots and garages and at on-street meters, as well as suspended parking citations issuance, processing, and collections, as these services were deemed “Non-Essential” per the County’s Order.
- The County Health Officer issued further orders on March 31st and April 29th extending the Shelter in Place through May 3rd and May 31st respectively.
- On May 18, 2020, the County Health Officer issued the latest Order which extended the Shelter in Place directive “until it is rescinded, superseded, or amended”.

The ongoing orders mandating that residents shelter in place and observe social distancing precautions have required most downtown businesses and hotels to temporarily close, severely curtail their operations, and a few businesses have closed permanently.

Although the actions by Staff to suspend parking operations has supported businesses and mitigated some of the financial impacts to permits holders with month-to-month permit parking, the Department of Transportation (DOT), City Manager's Office, and the Mayor's Office have been contacted by some long-term parking agreement holders describing the negative impacts due to COVID-19, and seeking relief from the City. The ability to grant relief must be balanced with the City's own financial health.

ANALYSIS

Staff's goal with the recommendations in this memo is to create a plan and flexibility for the future reopening of the City's parking operations while providing stability to the General Purpose Parking Fund; and providing relief for our downtown agreement holders, which includes major downtown businesses, government agencies, and tenants, landlords, and hotels that have been impacted during this unprecedented economic slowdown, and establishes operational programs consistent with the post-COVID realities like social distancing and limiting customer interactions.

1. Retroactive approval of daily free parking due to suspended parking operations

With the County Health Officer's March 16, 2020 shelter in place order, staff immediately began to evaluate the City's parking operations. Staff concluded that DOT's parking operations did not qualify or significantly support any essential activity, and any limited emergency enforcement activity could be handled by police officers. Following communications with the City's Emergency Operations Center, District 3 Council Office, Downtown Parking Board members, and the San Jose Downtown Association (SJDA), DOT initiated the following actions which took effect on March 19, 2020:

- Free parking at City public lots and garages and on-street metered spaces
- Suspended all month-to-month permit accounts effective April 1, 2020
- Suspended parking enforcement, vehicle abatement activities, citation processing and collections

Additionally, with the closure of the Convention Center and various cultural facilities, Team San Jose requested that DOT physically close off access to and from the Convention Center garage to limit loitering and potential vandalism within the Convention Center facility. Upon review and consultation with the adjacent hotels (Hilton, Marriott and Westin) DOT agreed to close the garage effective April 24, 2020; the garage will remain closed until operationally necessary to the downtown, hotels, or the Convention Center.

The outcome of these operational decisions allowed the City and vendor staff to adhere to the County's shelter in place orders while maintaining parking access to downtown residents and essential businesses, their employees, and the limited number of customers.

The anticipated financial impacts to the Parking Fund gross revenues due to the suspension of parking operations from March 19 through June 30, 2020 is a reduction of approximately \$3.8M, which includes \$2.65M from off-street lots and garages, \$1.14M from on-street meters. Reduced revenues are also anticipated in FY2020-21 as parking activity is projected to gradually return to pre-COVID levels, possibly over a period of a few years. As mentioned in Manager's Budget Addendum #5, it is anticipated that rebalancing of the Parking Fund in 2020-2021 will be likely due to the reduced revenue impacts related to the pandemic.

At this time, Staff is considering resuming paid parking operations early July 2020, however if circumstances do not justify this action, and in order to maintain flexibility, it is recommended Council delegate authority to the City Manager to authorize the exact implementation date.

The additional recommendations within this memo take these financial impacts into consideration with the goal of balancing future revenue generation and the economic vitality of our downtown merchants, employees, and residents.

2. Delegation of authority to negotiate amendments to long-term parking agreements

Parking agreements have been executed with various businesses ranging from taxi companies that split the costs for dedicated on-street spaces for customer pick-up and drop-off at key downtown locations, a car share vendor (Zip Car) for dedicated on-street spaces, curbside valet zones for downtown restaurants and hotels, and the largest sector being long-term parking agreements for off-street parking at the City's various downtown garages.

The long-term agreement terms vary from up to five years for many of the typical agreement types, eight years for the Mercury News, 24 years for the Hotel De Anza, 50 years for the Superior Court, and up to 99 years for the Hilton and Marriott Hotels.

Table 1 on the following page summarizes the various agreements and their monthly revenue values, which for all agreements total \$181,074 per month. With the suspension of parking operations including free daily parking at the City's lots and garages, and the ultimate closure of the Convention Center Garage to access, several of our large agreement holders have reached out to the City requesting relief of monthly fees due on their accounts.

Subject: Retroactive Approval of Suspended Parking Operations and Amendments to Various Parking Agreements and the Master Parking Rate Schedule**Table 1**

Agreement Type	Entity	Location	Spaces/Permits	Monthly Value
Long Term Parking Agreement	Hilton Hotel	Convention Center Garage	200	\$25,000
	Marriott Hotel	Convention Center Garage	193	\$26,379
	Westin Hotel	Convention Center Garage	77	\$9,625
	Superior Court	Market Street Garage	450	\$54,000
	Hotel De Anza	Market Street Garage	24	\$6,000
	111 N. Market Street Investor LLC	Market Street Garage	20	\$2,500
	GSA	2nd/San Carlos Garage	42	\$4,200
	IMVU Inc	2nd/San Carlos Garage	15	\$1,500
	Common Grounds	2nd/San Carlos Garage	35	\$3,500
	WeWork	3rd Street Garage	146	\$14,600
	Mercury News	3rd Street Garage	187	\$19,000
	Harvest Properties	3rd Street Garage	150	\$12,250
Agreement Type	Entity	Location	Spaces/Permits	Monthly Value
Car Share	Zip Car	On-Street Spaces	10	\$900
Taxi Zone	Split with 6 Taxi Companies	On-Street Spaces	23	\$1,380
Valet Zone	Misc.	On-Street Spaces	6	\$240

DOT must weigh the foregone revenues and the costs to operate and maintain the parking facilities with the potential economic impacts to downtown and to these various businesses as a result of the pandemic response. Providing a plan during this period of economic distress should result in better long term and more stable revenues to the City rather than the strict adherence to the agreement terms, that would dictate a termination due to non-payment which would have a greater impact to the City.

DOT continues to explore various financial relief models and has not made a final determination about the extent of the financial relief that the City should provide to these agreement holders. In order to expedite the relief efforts, the Administration is requesting City Council to delegate authority to the City Manager to negotiate and execute amendments to parking agreements to provide temporary financial relief for a period of up to six months, from April 1, 2020 through September 30, 2020, using a combination of the options outlined below.

1. Deferral of monthly parking fees during the temporary period of up to six months with no interest or late fees accruing during this time;
2. Waiving of parking fees with a not to exceed (NTE) value equal to 50% of the monthly agreement value (excluding permits in holding status) for a period of up to six months.
3. Potential extension of parking agreement terms for up to six months to acknowledge impacts to agreement term length that was directly impacted by the suspension of parking operations due to COVID pandemic.

DOT will coordinate and receive final approval from the City Manager and provide an update to City Council on any such negotiated and executed amendments in an informational memorandum.

3. Parking Program and Rates to Support Business Recovery

DOT proposes a series of updates to the Master Parking Rate Schedule to be effective July 1, 2020 with implementation of the new program and rates when the parking facilities resume operations. These rates and programs will allow the City's off-street parking operations to support businesses and overall economic vitality of the downtown, introduce programs to better align the operations and customer experiences with post-COVID protocols, and balance the financial health of the Parking Fund. The proposed programmatic changes include:

- Replacing the existing Downtown Parking Validation Program with a period, initially proposed at 90 minutes, of free parking for all visitors.
- Updating the Daily Incremental Parking Rates:
 - From \$1 each 20 minutes to \$1 each 15 minutes
 - Daily maximum rate from \$20 to \$25
 - Evening and Weekend maximum rate from \$5 to \$10
- Updating the discounted Downtown Merchant Employee parking program from only supporting those qualifying retail "merchants" to one that provides a discount to all employees earning \$20 or less per hour.

The concept of the above proposed changes (validation and employee parking) were presented to the Downtown Parking Board (DPB) at their March 4th meeting, albeit with a lesser period of free parking (60 minutes), and was generally supported by the board. Staff was preparing to bring forward a final recommendation to the board, however, their June 3rd meeting was canceled due to the pandemic. These proposed changes have continued to evolve to account for the ongoing impacts to downtown businesses and the City due to the COVID pandemic and the necessary economic recovery period that lies ahead. The proposed rate is only programed to be charged on the time accumulated beyond the initial 90 (free) minutes. For example, an individual parking for a total of 2-hours would be charged \$2. Even with the rate adjustment, parking within a City garage does still provide parkers a less expensive alternative to on-street meter parking (2-hour stay at a meter would cost a parker \$4). The amendments to the Master Parking Rate Schedule also incorporate some administrative "housekeeping" items to reflect the current portfolio of locations and programs,

Validation Program: The validation program has existed in some form for over 30 years and is widely used by qualifying businesses such as retail, restaurant, nightclubs, bars, recreation/gyms, and personal services (salon/spa). In its current form, the validation program provides customers up to two (2) hours of free parking at various City garages Monday - Friday from 6am - 6pm, and up to 12 hours of free parking after 6pm on weekdays and all day on Saturday and Sunday. The cost to participating businesses is \$0.30 per validation for any of these periods. Although well intentioned, the existing program and its various rules around how much free parking customers can receive based on time of day, day of week, which businesses "qualify" and which City locations accept validation has proven difficult for businesses to explain to customers, for customers to understand when planning a visit downtown, and is costly for the City and some

large volume businesses to administer. Additionally, with the current validation program the City forgoes approximately \$2.5 million in revenue annually.

Staff is now proposing to replace the cumbersome and confusing validation program with 90 minutes of free parking to all visiting parkers at City garages (excluding the Convention Center and City Hall garages), regardless of which business type they are visiting, which day of week or time of their visit. The proposed program will provide the following benefits:

- Easy to understand program for merchants and the SJDA to promote, and for customers to understand
- Equity to all downtown businesses and visitors who park at City garages
- Provides costs savings to businesses by eliminating the current \$0.30/validation cost, resulting in collective annual savings to downtown businesses of approximately \$250,000
- Provides costs savings to the City by reducing program management and administrative oversight
- Promotes post-COVID operational goals by eliminating the need for customers to bring parking tickets to merchant for validation which reduces handling of tickets and high touch interactions

Merchant Parking Program: The current Merchant Employee Parking Program offers a 50% discount at qualifying garages to a limited number of employees working for businesses that qualify for the Downtown Validation Program. DOT proposes a universal program which would provide a 50% discount off the regular monthly permit rate to any downtown employee who earns a wage of \$20 or less per hour. The proposed program will provide all low wage downtown employees a discounted parking option. The program would require discount permit holders to reapply bi-annually (June & December), providing proof of employment at a downtown address (within existing downtown meter district boundaries) and earning a qualifying wage. Like many parking programs in the Master Parking Rate Schedule, the continuation and eligibility will be monitored by Staff and the Director of Transportation will have the authority to extend the program on an annual basis.

DOT has collaborated with the SJDA on the proposed programs, and the SJDA has solicited feedback from several of the larger volume users of the existing validation program, which included Old Spaghetti Factory, Olla Cocina, and Orange Theory Fitness. Feedback was generally very positive on both the 90 minutes free parking and discounted employee parking program.

At this time, it is very difficult for staff to project the true impacts of these programs on the revenue to the City as the return of parking activity and volume of businesses and customers coming to downtown is likely to occur slowly and over a multi-year period before we are back at our pre-COVID 2020 activity levels. That said, prior projections which accounted for the 90

minutes free parking, the new rate structures, and little to no change in parking activity (using January 2020 base data) did project a modest \$350,000 increase in annual revenue.

4. Parking Citation Amnesty Program

In addition to suspending parking compliance activities, DOT has temporarily paused the placement of delinquent fees on parking citations that have not been paid. DOT also suspended parking citation collection efforts to provide relief to the public during the pandemic. DOT proposes that an amnesty program to waive accumulated delinquent fees imposed on all existing parking citations be explored, and therefore reset all outstanding amounts to their original parking violation fine.

Currently, there is approximately \$26 million in outstanding parking citation fines and fees due to the City. A potential amnesty program could temporarily waive the accumulated delinquent fees on previously issued citations for a period of 3 to 6 months, after which the fees would be reinstated for those citations that remain uncollected. The program could provide immediate relief to the public by significantly reducing the owed amount, while at the same time incentivizing the payment of all outstanding citations.

DOT proposes continuing the “pause” on parking citation collection while the analysis is conducted on a potential amnesty program. DOT intends to return in August 2020 to Council with recommendations regarding the proposed parameters of an amnesty program.

CONCLUSION

Approval of the recommendations will ratify the actions previously taken by Staff to suspend parking operations which provided for free daily parking within the City’s downtown facilities and at on-street meters; enable Staff to negotiate amendments to agreements with various downtown businesses, government agencies, taxi companies, and car share vendor to provide temporary financial relief; update parking programs and rates to support businesses; and provide direction to Staff to explore options for a potential parking citation delinquent fee amnesty program.

EVALUATION AND FOLLOW-UP

Following implementation of any approved programs, Staff will continue to present data and updates to the DPB at their quarterly meetings and to the Transportation and Environment Committee via its regular annual report.

CLIMATE SMART SAN JOSE

The recommendations in this memo have no effect on Climate Smart San Jose energy, water, or mobility goals.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council agenda website for the June 23, 2020 City Council Meeting.

POLICY ALTERNATIVES

Alternative #1: Council can elect to not provide financial relief and uphold the terms of the existing long-term parking agreements.

Pros: The various agreement holders would continue to be required to pay in accordance with the terms of their agreement.

Cons: With many of the downtown businesses and hotels holding parking agreements significantly impacted by the effects of the pandemic, requiring them to adhere to payment terms on parking they may not have fully utilized could create further hardship. Providing up to 50% financial relief would result in foregone revenues of up to approximately \$543,000 for a period of 6 months (April-September, 2020).

Reason for Not Recommending: Providing a plan and options during the agreement holders economic distress results in a better long term and more stable revenue to the City than strict adherence to the agreement terms.

Alternative #2: Council can elect to provide more than 50% financial relief of monthly fees on existing long-term parking agreements during suspended operations.

Pros: Provides additional economic benefit to downtown businesses and aligns with overall free parking provided to the public during suspended operations.

Cons: Additional financial relief would increase City's foregone revenue up to approximately \$543,000 more, resulting in a total of nearly \$1.1M in foregone revenues (for a 100% waiver of permit fees), than the proposed NTE of 50% of the account value for a period of 6 months.

Reason for Not Recommending: Finding a balance between providing financial relief to downtown businesses and protecting the stability of the City's Parking Fund is important. Staff believes the recommendation of a NTE threshold of 50% of an accounts monthly value for each month of suspended operations achieves this balance.

Alternative # 3: Council can elect to not approve an amendment to the Master Parking Rate Schedule and maintain the existing parking rates and programs.

Pros: Maintains existing parking rates and programs which are widely used by downtown businesses and parkers

Cons: Does not allow the City's parking operations to achieve the desired outcomes of an easy to understand and marketable parking program, reducing costs to merchants and the City, and promoting post-COVID operational safety guidelines.

Reason for Not Recommending: Maintaining the existing parking operations and rate schedule does not fully benefit either the City or our downtown businesses to the extent the proposed changes will provide going forward in a post-COVID operating environment.

Alternative #4: Council can elect to not direct staff to review options on a potential parking citation delinquent fee amnesty program.

Pros: Maintains City's ability to potentially fully collect the outstanding \$26 million in fines and fees.

Cons: Vehicle owners will not be afforded financial relief and their outstanding balances will remain active and unpaid. Additionally, it is unlikely that the City will realistically ever collect the full \$26 million in outstanding fines and fees for a variety of reasons, including the age of the citations, high balances owed by some individuals, and historical payment data.

Reason for Not Recommending: Staff believes it is time to consider alternative options to address uncollected citation fees and fines while being sensitive to the economic realities of our communities as a result of the ongoing pandemic.

COORDINATION

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

COMMISSION RECOMMENDATION/INPUT

Due to the cancellation of the City's various Board and Commission meetings, this item was not reviewed by the Downtown Parking Board. However, the concepts included in the proposed Master Parking Rate Schedule was presented to the DPB at their March 4, 2020 meeting and was generally supported.

COST SUMMARY/IMPLICATIONS

As mentioned previously in this memorandum, the anticipated financial impacts to Parking Fund gross revenues due to the suspension of parking operations from March 19 through June 30, 2020 is a reduction of approximately \$3.8M. Rebalancing of the Fund in 2020-2021 will be

HONORABLE MAYOR AND CITY COUNCIL

June 8, 2020

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likely, and is anticipated to occur during the 2020-21 Mid-Year Budget process. The proposed updates to various parking programs and rates may generate an approximate \$350,000 increase in annual revenue, however, the increase during the first year would depend on how quickly downtown parking activity returns to pre-COVID conditions. If council approves providing up to 50% financial relief for up to six months to various groups that have long-term parking agreements with the City, the impact to the Parking Fund would be foregone revenues of up to approximately \$543,000. Approving 100% financial relief to these groups would result in foregone revenues of up to approximately \$1,086,000.

CEQA

Not a Project, File No. PP17-003, Agreements and Contracts that will result in no physical changes to the environment.

/s/

JOHN RISTOW

Director of Transportation

For questions, please contact Arian Collen, Parking Manager, at (408) 975-3246.