



City of Sunnyvale

Notice and Agenda

Parks and Recreation Commission

Wednesday, July 8, 2015

7:00 PM

Council Chambers, City Hall, 456 W. Olive
Ave., Sunnyvale, CA 94086

CALL TO ORDER

SALUTE TO THE FLAG

ROLL CALL

PUBLIC ANNOUNCEMENTS

Speakers are limited to 3 minutes for announcements of related board/commission events, programs, resignations, recognitions, acknowledgments.

CONSENT CALENDAR

- 1a [15-0077](#) Draft Minutes of June 10, 2015 Parks and Recreation
Commission Meeting

Attachments: [Draft Minutes of June 10, 2015](#)

- 1b [15-0435](#) Approve a Special Agreement between the City of Sunnyvale
and the Sunnyvale Garden Club for Outside Group Support

Recommendation: Recommend that Council approve the Special Agreement
between the Sunnyvale Garden Club and the City of
Sunnyvale for Outside Group Support.

Attachments: [Council Policy 7.2.4, Relationships with Outside Groups](#)
[Agreement Between the City of Sunnyvale and the Sunnyv](#)
[Map of Heritage Center Landscape Area](#)

PUBLIC COMMENTS

This category is limited to 15 minutes, with a maximum of three minutes per speaker. If you wish to address the commission, please complete a speaker card and give it to the Recording Secretary or you may orally make a request to speak. If your subject is not on the agenda, you will be recognized at this time; but the Brown Act (Open Meeting Law) does not allow action by commission members. If you wish to speak to a subject listed on the agenda, you will be recognized at the time the item is being considered by the commission.

PUBLIC HEARINGS/GENERAL BUSINESS

- 2 [15-0597](#) Introduce an Ordinance to Add Chapter 9.63 (Camping and Storage of Property in Public Areas) to Chapter 9 (Public Peace, Safety or Welfare) of the Sunnyvale Municipal Code

Recommendation: Alternative 1: Introduce an ordinance to add Chapter 9.63 (Camping and Storage of Property in Public Areas) to Chapter 9 (Public Peace, Safety or Welfare) of the Sunnyvale Municipal Code.

Parks and public areas are not intended to be used for camping or storage, which interfere with the ability of the general public to use and enjoy those areas for their primary purpose and have a negative effect on the safety, sanitation, cleanliness and attractiveness of public areas. This ordinance would provide the city with the ability to enforce the prohibition of camping and storage in public places except as otherwise authorized by the Sunnyvale Municipal Code.

Attachments: [SMC 9.63 Camping and Storage of Property in Public Area](#)

- 3 [15-0662](#) Election of Chair and Vice Chair

NON-AGENDA ITEMS & COMMENTS

-Commissioner Comments

-Staff Comments

ADJOURNMENT*Notice to the Public:*

Any agenda related writings or documents distributed to members of this meeting body regarding any item on this agenda will be made available for public inspection in the originating department or can be accessed through the Office of the City Clerk located at 603 All America Way, Sunnyvale, CA. during normal business hours and at the meeting location on the evening of the board or commission meeting, pursuant to Government Code §54957.5.

Agenda information is available by contacting Anna Lewis at (408) 730-7336. Agendas and associated reports are also available on the City's web site at <http://sunnyvale.ca.gov> or at the Sunnyvale Public Library, 665 W. Olive Ave., Sunnyvale, 72 hours before the meeting.

Pursuant to the Americans with Disabilities Act, if you need special assistance in this meeting, please contact Anna Lewis at (408) 730-7336. Notification of 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (29 CFR 35.106 ADA Title II)



City of Sunnyvale

Agenda Item

15-0077

Agenda Date: 7/8/2015

Draft Minutes of June 10, 2015 Parks and Recreation Commission Meeting



City of Sunnyvale

Meeting Minutes - Draft Parks and Recreation Commission

Wednesday, June 10, 2015

7:00 PM

Neighborhood Room - Recreation Center,
Sunnyvale Community Center, 550 E.
Remington Drive, Sunnyvale, CA 94087

Note: Location Change

CALL TO ORDER

Chair Alexander called the meeting to order at 7:06 p.m. in the Neighborhood Room of the Community Center.

SALUTE TO THE FLAG

Chair Alexander led the salute to the flag.

ROLL CALL

Present: 5 - Chair Henry Alexander III
Vice Chair Craig Pasqua
Commissioner Ralph Kenton
Commissioner Robert Pochowski
Commissioner Andrea Schneck

Council Liaison Vice Mayor Martin-Milius (present)

PRESENTATION

[15-0613](#) Commissioner Recognition

Vice Mayor Martin-Milius presented Vice Chair Pasqua with a certificate of appreciation for serving on the Parks and Recreation Commission from 2011-2015. She thanked him for his continued service in his second term (2015-2019). Superintendent Wax thanked all the Commissioners for their service.

PUBLIC ANNOUNCEMENTS

Chair Alexander announced the upcoming board and commission application deadline.

CONSENT CALENDAR

1 A [15-0187](#) Draft Minutes of the Parks and Recreation Commission
Meeting of April 22, 2015

Vice Chair Pasqua moved and Commissioner Pochowski seconded the motion to approve the draft minutes of April 22, 2015. The motion carried by the following vote:

Yes: 5 - Chair Alexander III
 Vice Chair Pasqua
 Commissioner Kenton
 Commissioner Pochowski
 Commissioner Schneck

No: 0

1 B [15-0617](#) Draft Minutes of the Parks and Recreation Commission and
Arts Commission Joint Meeting of May 20, 2015

Commissioner Kenton moved and Commissioner Pochowski seconded the motion to approve the draft minutes of May 20, 2015. The motion carried by the following vote:

Yes: 5 - Chair Alexander III
 Vice Chair Pasqua
 Commissioner Kenton
 Commissioner Pochowski
 Commissioner Schneck

No: 0

PUBLIC COMMENTS

None.

PUBLIC HEARINGS/GENERAL BUSINESS

2 [15-0615](#) Senior Center Program Overview

Community Services Manager Gerard Manuel presented information about the Senior Center programs and partner's who provide programs and services. The mission of the Senior Center is to engage seniors and help them "live well" in the community. He answered Commissioner's questions regarding resources for homeless seniors, housing assistance, nutritional education, and transportation services. He provided information about membership age requirements, cost, and services available for non-members. He answered questions regarding funding sources for care management, how effectiveness is measured, and strategic plans.

Commissioner Pochowski praised Manager Manuel for leveraging funding with effective partner organizations to provide excellent services.

Chair Alexander opened the public hearing. There were no public comments and he closed the public hearing.

3 [15-0616](#) Community Center Tour

Superintendent of Community Services and Manager Manuel provided a tour of the Senior Center on the Community Center campus. Manager Manuel answered Commissioner Kenton's questions regarding the services provided by the lunch program, the computer lab and fitness room. He also answered Commissioner Kenton's questions about publicizing programs, working seniors use of the center, and if local senior centers collaborate. He answered Vice Chair Pasqua's question regarding hosting adult day care services.

Chair Alexander opened the public hearing. There were no public comments and he closed the public hearing.

NON-AGENDA ITEMS & COMMENTS

-Commissioner Comments

Commissioner Kenton provided information from the Council meeting on June 9, 2015 regarding the study issue to move the Butcher House. He asked if it will be presented to the Parks and Recreation Commission before it is presented to Council. Superintendent of Parks and Golf Scott Morton said it would be presented in combination with the conceptual design of the Orchard Heritage Park Renovation capital project. Superintendent Morton stated public meetings will also be held to gather community input.

Commissioner Pochowski announced the Stevens Creek Trail Four Cities Joint Feasibility Study is holding meetings for public input. He inquired if the Commission would be asked to review the project. Vice Mayor Martin-Milius is on the committee and provided information about the process and timeframe for review. She stated that she would like the draft recommendations to be reviewed by Commissions before final recommendations are provided to Council. She encouraged the Commissioners to read the report online at <http://sunnyvale.ca.gov/Departments/PublicWorks/StevensCreekTrailJointCitiesFeasibilityStudy.aspx>. Superintendent Morton stated the Commission would review any reports to council on this subject.

-Staff Comments

Superintendent Wax announced that the Special Order of the Day "July is Parks and Recreation Month" will be proclaimed at the June 23, 2015 Council Meeting. Chair Alexander confirmed he will attend.

INFORMATION ONLY REPORTS/ITEMS

[15-0622](#)

Review Revised Council Policy 7.2.19

ADJOURNMENT

Chair Alexander adjourned the meeting at 8:45 p.m.



City of Sunnyvale

Agenda Item

15-0435

Agenda Date: 7/8/2015

REPORT TO PARKS AND RECREATION COMMISSION

SUBJECT

Approve a Special Agreement between the City of Sunnyvale and the Sunnyvale Garden Club for Outside Group Support

BACKGROUND

Consistent with City Council policy 7.2.4 *Relationships with Outside Groups* (Attachment 1), the City of Sunnyvale Departments of Library and Community Services (LCS) and Public Works (DPW) have had a standing Special Agreement for over ten years with the Sunnyvale Garden Club, a non-profit organization. In January 2014, the Garden Club sent written notification requesting renewal of the agreement.

Under the terms of the five-year Agreements established in 2004 and again in 2009, the City provided the Club with use of City facilities at reduced rates or at no charge for the purpose of membership meetings and other Club business, and a listing in the Community Services Division Activity Guides. In exchange, the Club provided maintenance of the Sunnyvale Heritage Center landscapes and grounds and taught gardening classes to the community at no cost to the City. The 2009 Agreement expired on June 1, 2014 and was extended through August 31, 2015.

The City Council is scheduled to consider this item on July 28, 2015.

EXISTING POLICY

Council Policy 7.2.4 *Relationships with Outside Groups*

General Plan - Community Character (CC)

Policy CC-4.2 Maintain beautiful and comfortable outdoor public places which provide a shared sense of ownership and belonging for Sunnyvale residents, business owners and visitors.

Policy CC-10.6 Leverage available resources by pursuing co-funded and/or cooperative agreements for provision and maintenance of programs, facilities, and services in order to maximize benefits to the community. Partners may include, but are not limited to, school districts, non-profit groups, governmental agencies and businesses.

ENVIRONMENTAL REVIEW

NA

DISCUSSION

Council Policy 7.2.4, *Relationships with Outside Groups*, states that the City may support programs by outside groups that provide a community service or promote an informed interest in the City's

objectives, services, facilities and programs for the benefit of its residents and businesses. Special agreements approved by the Council are required for partnerships that involve waiver of standard facility rental fees and other distinct City services.

The City and the Garden Club have entered into Special Agreements over the past ten years which must be renewed. The City has provided reduced or waived facility rental fees in exchange for the Garden Club maintaining certain areas of the Heritage Center. The proposed new agreement (Attachment 2) amends the locations in which the Garden Club may meet and adds a component for the Garden Club to participate in the Hands on the Arts Festival and provide the Library with advice on gardening-related programs.

Staff recommends the City enter into an agreement for an initial five year term, with authorization for the City Manager to approve two additional two-year terms, for a total agreement term not to exceed nine years.

The proposed agreement requires Sunnyvale Garden Club to:

- Maintain portions of the Sunnyvale Heritage Center landscape and grounds (Attachment 3);
- Provide advice to the Library on programs and services that meet the needs of the gardening community;
- Staff a garden art-related workshop booth at the annual Hands on the Arts Festival and contribute \$100 annually to support the Festival;
- Maintain a Club membership of at least 51% Sunnyvale residents; and,
- Comply with all Federal, State and local laws.

In exchange, the City will provide the following:

- A room at the Community Center for the Club's regular monthly membership meetings at no cost to the Club;
- A room at the Community Center for the Club's annual fundraising activity as needed at 15% of the regularly published non-profit rate;
- Listing of the Club in the Community Services Activity Guides;
- Necessary supplies to complete the Club's Hands on the Arts festival workshop project.

If approved, the Special Agreement would also affirm the strong relationship established between the Sunnyvale Garden Club and the City.

FISCAL IMPACT

Approving the Special Agreement will have no net fiscal impact to the City. When the value of the Garden Club's use of City facilities is considered (maximum annual market rate value of \$2,400), it is likely outweighed by the value of the services rendered by the Garden Club.

PUBLIC CONTACT

Public contact was made through posting of the Parks and Recreation Commission agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center, and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

RECOMMENDATION

Recommend that Council approve the Special Agreement between the Sunnyvale Garden Club and the City of Sunnyvale for Outside Group Support.

Prepared by: Daniel Wax, Superintendent of Community Services

Reviewed by: Lisa G. Rosenblum, Director, Department of Library and Community Services

Reviewed by: Manuel Pineda, Director, Department of Public Works

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Council Policy 7.2.4, Relationships with Outside Groups
2. Agreement Between the City of Sunnyvale and the Sunnyvale Garden Club
3. Map of Heritage Center Landscape Area

COUNCIL POLICY MANUAL

Policy 7.2.4 Relationships with Outside Groups

POLICY PURPOSE:

The intent of this policy is to identify the various types of support the City will provide to outside groups and/or independent organizations, as well as the circumstances under which support will be provided.

POLICY STATEMENTS:**Eligibility**

Outside groups and/or independent organizations provided support under this policy shall provide a community service, or promote an informed interest in the City's objectives, services, facilities and programs for the benefit of its residents and businesses, and/or have its purpose the raising of funds and provision of financial support for the City's programs, and comply with the First Amendment, pertinent federal and state laws as well as City ordinances.

Types of Support**1. Financial Support**

Human Services Groups seeking financial support from the City must comply with the City's Human Services Policy (Council Policy 5.1.3) administered by the Department of Community Development. This is true regardless of the type of funding desired by the group (i.e., printing costs, facility rental fees, insurance costs, general operating expenditure support, etc.)

Additional financial support is available only through a Special Agreement (see below).

2. Use of City Facilities

It is the City's policy to afford use of specific City facilities-during such times the City does not itself have use for said facilities- to outside groups and/or independent organizations. Outside groups and independent organizations using City facilities shall do so consistent with City policies on facility use and shall pay all required fees in accordance with established fee schedules.

Additional use of City Facilities is available only through a Special Agreement (see below).

Publicity

Groups seeking assistance with publicity shall comply with the following:

1. Council Banner Policy (Council Policy 2.5.2) which defines conditions and circumstances under which outside groups are allowed to hang banners on City property.
2. Administrative policies governing City publications and other forms of media (e.g. KSUN-15), and the display or distribution of printed materials on City property.
3. Outside groups are prohibited from using the City's logo for any purpose unless specifically authorized to do so by the City.

COUNCIL POLICY MANUAL

Other Support (Special Agreements)

Outside Groups or independent organizations seeking higher levels of support or different types of support than are provided for above, shall submit a written request to the appropriate Department for review.

Examples include, but are not limited to: approval to put the City's logo on the independent organization's printer materials; use of City spaces for special uses not covered by standard facility rental fees (e.g., storage, snack shacks; construction of special structures or fixtures on City property). Following review, staff shall inform the requestor as to:

1. Whether staff supports the provision of the requested support.
2. The required approval process (Does it require City Manager or City Council approval? Does it require a study issue to be ranked by City Council?) Any agreement including the provision of City facilities, goods or services to an outside group for less than the approved fee for those goods or services (or in cases where there is no approved fee where City goods or services are provided at less than the cost incurred by the City to provide them) shall require Council approval. Any Special Agreement requiring Council approval shall first be reviewed by the appropriate board or commission. Where no appropriate board or commission exists, the Office of the City Manager shall provide its recommendation to City Council.

(Adopted: RTC 84-644(12/4/1984); Amended: RTC 88-238(5/17/1988), 92-519(10/27/1992, 03-361(10/21/2003); (Clerical/clarity update, Policy Update Project 7/2005); Amended: RTC 06-112 (4/11/2006)/Administrative update (March 2012))

Lead Department: Department of Library and Community Services

AGREEMENT BETWEEN CITY OF SUNNYVALE AND THE SUNNYVALE GARDEN CLUB

THIS AGREEMENT dated August 1, 2015 is by and between the CITY OF SUNNYVALE (CITY), a municipal corporation, and The Sunnyvale Garden Club (CLUB).

WHEREAS the City desires to support independent organizations providing services beneficial to the Community; and,

WHEREAS the Sunnyvale Garden Club, a non-profit organization, wishes to provide services beneficial to the Community; and,

WHEREAS the Sunnyvale Garden Club desires to use certain Sunnyvale Department of Library and Community Services facilities for a cost reduced from that dictated by established City facility rental rates;

NOW THEREFORE, in accordance with Policy 7.2.4 - Relationships with Outside Groups, the City and the Sunnyvale Garden Club enter into this agreement.

1. Obligations of City:

CITY shall:

- a) Provide CLUB use of one (1) room at the Sunnyvale Community Center for a three and one-half hours period (includes set-up and clean-up time) one (1) day per month for Club's membership meeting at no charge to CLUB;
- b) List CLUB in the Community Services Division Activity Guides;
- c) Provide one (1) reservation for one (1) date annually as mutually agreed by City and Club for the Community Center Ballroom, capacity of 250, for a fundraising activity for a maximum of eight (8) hours (includes set-up and clean-up time) at a reduced rate of 15% of the current published non-profit rental rate.
- d) Provide CLUB two keys to the Sunnyvale Heritage Center garden gate and shed.
- e) Provide necessary supplies for 500 children to complete CLUB's Hands on the Arts festival workshop project. CITY will cover all costs associated with the festival.

2. Obligations of CLUB

CLUB shall:

- a) Maintain portions of the Sunnyvale Heritage Center landscapes and grounds at no cost to the City (site map of designated area attached). Note: no power equipment is to be used, or major design alterations implemented, without City approval.
- b) Advise the Library on library programs and services and act as a resource to ensure the Library meets the needs of the gardening community.
- c) Maintain a membership of at least 51% Sunnyvale residents for both members and Board of Directors. In the event members and/or Board of Directors falls below 51% Sunnyvale residents, CLUB shall forfeit the free and discounted room rates and shall pay the regular non-profit rate. Club agrees to provide a roster with participant full addresses to City to verify residency annually by September 1 of each year and at any other time requested by City.
- d) CLUB agrees to staff a garden art-related workshop booth for up to 500 children ages 3-12 at the CITY's annual Hands on the Arts children's art festival. CLUB will submit workshop proposal according to published festival deadlines and will work with CITY representative to ensure that proposed project meets festival requirements. CLUB will contribute \$100 annually to the CITY to support the festival. CLUB will provide sufficient volunteers to staff its workshop booth. According to City policy, all event volunteers 18 years and older must pass Department of Justice fingerprinting through the City of Sunnyvale Department of Public Safety.
- e) Comply with all Federal, State and local laws.

3. Conflicts of Interest

No officer or employee of CITY shall have any interest, direct or indirect, in this Agreement or in the proceeds thereof. During the term of this Agreement CLUB shall not accept employment or an obligation which is inconsistent or incompatible with CLUB'S obligations under this Agreement.

4. Compliance with Laws

- a) CLUB shall not discriminate against any employee, member or applicant for employment because of race, religion, creed, color, gender, age, disability, national origin, or any other basis to the extent prohibited by federal, state or local law.
- b) CLUB shall comply with all federal, state, county and city laws, statutes, ordinances, rules and regulations and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting performance of the Agreement.

5. Independent CONTRACTOR

CLUB is acting as an independent contractor in furnishing any services or materials and performing work required by this Agreement and is not an agent, servant or employee of CITY. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between CITY and CLUB. CLUB is responsible for paying all required state and federal taxes.

6. Indemnity

CLUB agrees to indemnify and hold harmless CITY, its officers and employees from any and all claims, demands, actions, causes of action, losses, damages, liabilities, known or unknown, and all costs and expenses, including reasonable attorneys' fees in connection with any injury or damage to persons or property arising out of or in any way connected with the act, omission or negligence of GROUP, its officers, employees, agents, members or any officer, agent or employee thereof in relation to CLUB'S performance under this Agreement.

7. Insurance

Club shall procure and maintain, for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work by the Club, its agents, representatives, or employees.

Minimum Scope and Limits of Insurance: Club shall maintain limits no less than:

A. Commercial General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage and \$2,000,000 annual aggregate. ISO Occurrence Form CG 0001 is required.

B. Workers' Compensation with statutory limits and Employer's Liability with limits of not less than \$1,000,000 per accident for bodily injury or disease.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared and approved by the CITY. Club shall guarantee payment of any losses and related investigations, claim administration and defense expenses within the deductible or self-insured retention.

Other Insurance Provisions

The general liability policy is to contain, or be endorsed to contain, the following provisions:

A. The City of Sunnyvale, and its officers, employees and elected officials, boards and commissions are to be covered as additional insureds with respects to liability arising out of activities performed by or on behalf of the Club. The coverage shall contain no special limitations on the scope of protection afforded to the CITY.

B. For any claims related to this project, the Club's insurance shall be primary. Any insurance or self-insurance maintained by CITY shall be excess of Club's insurance and shall not contribute with it.

C. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the CITY.

D. Club's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

E. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the CITY.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the CITY.

Verification of Coverage

Club shall furnish the CITY with original Certificates of Insurance effecting the coverage required. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates are to be received and approved by the CITY.

8. CITY Representative

Parks Division liaison or such other person as may be designated by the Director of Department of Public Works of CITY shall represent CITY as the City Manager's authorized representative in all matters pertaining to the services to be rendered under this Agreement. All requirements of CITY pertaining to the services and materials to be rendered under this Agreement shall be coordinated through the CITY representative.

9. CLUB Representative

Sunnyvale Garden Club President shall represent CLUB in all matters pertaining to the services and materials to be rendered under this Agreement; all requirements of CLUB pertaining to the services or materials to be rendered under this Agreement shall be coordinated through the CLUB representative.

10. Notices

All notices required by this Agreement shall be in writing, and shall be personally delivered, sent by first class mail with postage prepaid, or by commercial courier, addressed as follows:

To CITY:	Deanna J. Santana, City Manager CITY OF SUNNYVALE P.O. Box 3707 Sunnyvale, CA 94088-3707 (408) 730-7480
To Sunnyvale Garden Club:	Ann Andersen, President 576 Hyannis Drive Sunnyvale, CA 94087 (408) 738-1942

Nothing in this provision shall be construed to prohibit communication by more expedient means, such as by telephone, email or facsimile transmission, to accomplish timely communication. However, to constitute effective notice, the expedient means of communication (eg. telephone, email, facsimile) must be followed by written confirmation of those communications. Written confirmation must be sent by first class mail, commercial carrier or hand delivered. Each party may change the address by written notice in accordance with this paragraph. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of three days after mailing, unless such date is a date on which there is no mail service. In that event communication is deemed to occur on the next mail service day.

11. Assignment

Neither party shall assign or sublet any portion of this Agreement without the prior written consent of the other party.

12. Duration of Agreement

This Agreement shall continue from the date of execution for a period of five (5) years, unless otherwise terminated in accordance with section 13 below. The City Manager has the option and is authorized to execute extensions of this agreement for two (2) two-year terms, provided Club has performed its responsibilities under this Agreement to City's reasonable satisfaction.

13. Termination

(a) If CLUB defaults in the performance of this Agreement, or materially breaches any of its provisions, CITY at its option may terminate this Agreement by giving sixty (60) days written notice to CLUB.

(b) Without limitation to such rights or remedies as CITY shall otherwise have by law, either party shall have the right to terminate this Agreement for any reason upon ninety (90) days' written notice to the other party.

14. Entire Agreement; Amendment

This writing constitutes the entire agreement between the parties relating to the services to be performed or materials to be furnished hereunder. No modification of this Agreement shall be effective unless and until such modification is evidenced by writing signed by all parties.

15. Miscellaneous

Time shall be of the essence in this Agreement. Failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision. This Agreement shall be governed and construed in accordance with the laws the State of California.

IN WITNESS WHEREOF, the parties have executed this Agreement.

ATTEST:

CITY OF SUNNYVALE ("CITY")

City Clerk

By _____
City Manager

APPROVED AS TO FORM:

SUNNYVALE GARDEN CLUB

City Attorney

By _____
Ann Andersen, President

Storage shed used by
Sunnyvale Garden Club

Areas maintained by
Sunnyvale Garden Club





City of Sunnyvale

Agenda Item

15-0597

Agenda Date: 7/8/2015

REPORT TO PARKS AND RECREATION COMMISSION

SUBJECT

Introduce an Ordinance to Add Chapter 9.63 (Camping and Storage of Property in Public Areas) to Chapter 9 (Public Peace, Safety or Welfare) of the Sunnyvale Municipal Code

BACKGROUND

Parks, public areas, and city owned properties in Sunnyvale are not intended to be used for camping or the storage of personal property. In recent years, the City has received a growing number of complaints from residents about camping and storage of property on public property, particularly in Fair Oaks Park and under the north side of the Fair Oaks Bridge Overpass near Kifer Road. The proposed ordinance will provide a tool to help the City maintain public areas in a clean and accessible condition for use by all City residents.

The City Council is scheduled to consider this item on August 11, 2015.

EXISTING POLICY

Sunnyvale Municipal Code Section 9.62.090 "Loitering Prohibited During Certain Hours. No person shall remain, stay or loiter in any public park, between the hours of nine p.m. and six a.m. of the following day without approval from the director.

ENVIRONMENTAL REVIEW

NA

DISCUSSION

New Code and Enforcement

The purpose of the new code (see Attachment 1) is to provide a tool to assist the City's ability to balance the needs and rights of all users of city parks and rights-of-way to ensure that both people and the environment are protected from damage. The ordinance will allow maintenance of public property in a clean, sanitary, safe, attractive and accessible condition, protect the health, safety, environment and general welfare of the community, and address conditions on public property that diminish the public's ability to use and enjoy those facilities.

Cities are authorized to regulate public behavior that may create substantial health and safety hazards, and, to that end, courts have upheld ordinances prohibiting camping and storage of personal property on public property. Adverse conditions staff members have observed in cases involving camping and storage on public property include the presence of litter and human excrement, damage to landscaping, and obstructed public rights of way and/or recreational facilities. These conditions can create hazards to the health of those who are camping and/or storing property, as well as to other citizens who use public facilities. The proposed ordinance attempts to address these conditions by making it unlawful for any person to camp or store personal or unattended

property in any park, street, or on other public property except as otherwise authorized by the Sunnyvale Municipal Code. The ordinance is not intended to criminalize homelessness or prevent individuals from using public facilities if they cause no damage to public property. However, it will allow the City to ask those who are causing damages, disturbances, or nuisances to leave.

Enforcement procedures are progressive, starting with an oral request and proceeding through a written warning, citation and possible arrest. When individuals are not present to remove unattended property the area shall be posted at least 72 hours before the property is removed. The property thereafter would be stored by the city for 90 days for the purpose of recovery by the owner after which time the City would have the authority to discard or destroy it

Camping

City staff members handling issues related to camping in parks and public areas have observed that it negatively affects the safety, sanitation, accessibility and attractiveness of those facilities. These areas do not have restrooms for all or part of the day so people urinate and defecate on the ground causing health and safety problems for people and the environment. Staff and a contractor recently combined efforts to clean the area under the north side of the Fair Oaks bridge overpass near Home Depot because of human feces and debris on the sidewalk, landscape, and surrounding areas. Camping affects the usability of parks because space taken up by campers is not available for its intended recreational use. For example, in the case of Fair Oaks Park, campers utilized picnic sites and natural areas adjacent to the athletic field and a pedestrian/bicycle path that impacted other park users' ability to safely use those areas.

Storage

The storage of personal property in parks and public areas also poses a number of problems for the public and the environment. These areas are often used for dumping of trash and unwanted personal property, including electronics, furniture and clothing, making it difficult to determine if materials are refuse or stored personal property that is simply unattended. Materials can be enclosed in bags, tarps or other coverings that make it even harder to assess whether it is debris or wanted personal property. Materials inside the coverings can be dangerous. Staff has found broken glass, knives, hypodermic needles and hazardous chemicals and fluids in unmarked containers. Stored materials pose possible hazards, and reduce opportunities for intended use of public areas.

FISCAL IMPACT

All related costs will be absorbed within current operating budgets, including enforcement by Public Safety and signage, clean-up and property storage by Public Works.

PUBLIC CONTACT

Public contact was made through posting of the Parks and Recreation Commission agenda on the City's official-notice bulletin board, on the City's website, and the availability of the agenda and report in the Office of the City Clerk.

ALTERNATIVES

1. Introduce an ordinance to add Chapter 9.63 (Camping and Storage of Property in Public Areas) to Chapter 9 (Public Peace, Safety or Welfare) of the Sunnyvale Municipal Code
2. Other Council action as desired.

RECOMMENDATION

Alternative 1: Introduce an ordinance to add Chapter 9.63 (Camping and Storage of Property in Public Areas) to Chapter 9 (Public Peace, Safety or Welfare) of the Sunnyvale Municipal Code.

Parks and public areas are not intended to be used for camping or storage, which interfere with the ability of the general public to use and enjoy those areas for their primary purpose and have a negative effect on the safety, sanitation, cleanliness and attractiveness of public areas. This ordinance would provide the city with the ability to enforce the prohibition of camping and storage in public places except as otherwise authorized by the Sunnyvale Municipal Code.

Prepared by: Scott Morton, Superintendent of Parks and Golf
Reviewed by: Manuel Pineda, Public Works, Director
Reviewed by: Kent Steffens, Assistant City Manager
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. SMC 9.63 Camping and Storage of Property in Public Areas

ORDINANCE NO. ____-15

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF SUNNYVALE ADDING CHAPTER 9.63 (CAMPING
AND STORAGE OF PROPERTY IN PUBLIC AREAS) OF
TITLE 9 (PUBLIC PEACE, SAFETY OR WELFARE) OF
THE SUNNYVALE MUNICIPAL CODE**

WHEREAS, the City of Sunnyvale desires to add a chapter to the Sunnyvale Municipal Code Title 9 (Public Peace, Safety or Welfare) relating to camping and storage of personal property in public places.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. CHAPTER 9.63 ADDED. Chapter 9.63 (Camping and Storage of Property in Public Areas) of Title 9 (Public Peace, Safety or Welfare) of the Sunnyvale Municipal Code is hereby added to read as follows:

Chapter 9.63

CAMPING AND STORAGE OF PROPERTY IN PUBLIC AREAS

- 9.63.010. Purpose and Intent.**
- 9.63.020. Definitions.**
- 9.63.030. Unlawful Camping.**
- 9.63.040. Storage of Personal Property in Public Places.**
- 9.63.050. Enforcement Procedures.**
- 9.63.060. Violations.**

9.63.010. Purpose and intent.

The public parks, streets, sidewalks and other public areas within the city should be readily accessible and available to residents and the public at large for their intended purposes. The purpose of this section is to maintain public areas within the city in a clean, sanitary, safe, attractive and accessible condition and to protect the health, safety, environment and general welfare of the community. In addition, the use of public areas for camping and sleeping interferes with the rights of others to use and enjoy those areas as they are intended.

9.63.020. Definitions.

For purposes of this chapter:

- (a) "Camp" means the erecting of or occupying camp facilities for the apparent purpose of overnight occupancy, or to use camp paraphernalia.

(b) "Camp facilities" include, but are not limited to, tents, huts, or other temporary shelters.

(c) "Camp paraphernalia" includes, but is not limited to, tarpaulins, mattresses, lanterns, stoves, or non-city designated cooking facilities and similar equipment.

(d) "Park" means any publicly-owned park or recreation area, playground, athletic field, bike trail, hiking trail, or publicly-accessible open space that is used and devoted to active or passive recreation within the city of Sunnyvale, including buildings and facilities thereon, whether or not such areas have been formally dedicated to such purpose.

(e) "Store" means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave unattended in a location.

(f) "Unattended property" means any personal property which appears to have been abandoned, discarded, or disregarded by its owner; or property which has been left unattended for an unreasonable amount of time. An "unreasonable" amount of time may be any amount of time, however, any property left unattended for twelve hours or more shall be considered unattended per se.

(g) "Street" or "public street" includes avenues, highways, lanes, alleys, crossings or intersections, and courts which have been dedicated and accepted according to law, or which have been in common and undisputed use by the public for a period of not less than five years next preceding the effective date of the ordinance codified in this chapter.

(h) "Public property" means all publicly owned real property, including, but not limited to, any street, alley, sidewalk, pedestrian or transit mall, public parking lot, bike path, greenway, creek, waterway, lots, parcels, open space, any other forms of improved or unimproved land or real property or any other structure or area encompassed within the public right-of-way; any park, parkway, mountain park, or other recreation facility; or any other grounds, buildings, or other facilities owned or leased by the city or by any other public owner, regardless of whether such public property is vacant or occupied and actively used for any public purpose.

9.63.030. Unlawful camping.

It shall be unlawful for any person to camp, occupy camp facilities, use camp paraphernalia, or cause a disturbance or nuisance, in any park, street, or other public property, except as otherwise authorized by the Sunnyvale Municipal Code:

9.63.040. Storage of personal property in public places.

It shall be unlawful for any person to store personal property or unattended property, including camp facilities and camp paraphernalia, in any park, street, or other public property, except as otherwise authorized by the Sunnyvale Municipal Code.

9.63.050. Enforcement procedures.

No officer of the department of public safety shall issue a citation, make an arrest or otherwise enforce this section against any person unless:

(a) The officer first orally requests or orders the person to refrain from the alleged violation of this section.

(b) If the person fails to comply after receiving the oral request or order, the officer tenders a written warning stating that if the person fails to comply, he or she may be cited or arrested for a violation of this section.

(c) If the person refuses to cooperate after receiving the oral and written warning, the officer may proceed to arrest or criminally cite the person for a violation of this section.

(d) Where individuals are not present to remove unattended property pursuant to this chapter, the area shall be posted at least seventy-two hours before such property is removed. The property shall thereafter be removed and stored by the city in a manner consistent with the city's administrative procedures regarding encampment removals and applicable state and federal law. Owners of personal property shall have ninety days to recover such property, after which time the city may destroy the property.

9.63.060. Violations.

(a) Violations of this chapter shall constitute an infraction and may be subject to an administrative citation, fine, criminal prosecution, or any other civil or criminal remedies available under the Sunnyvale Municipal Code or other legal authority.

(b) Subsequent violations of this chapter within two years subsequent to the date of the initial violation may, at the discretion of the city attorney, be prosecuted as a misdemeanor, punishable by a fine of not less than five hundred dollars, nor more than one thousand dollars, by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment. This remedy is in addition to any other legal remedy, civil or criminal, available under the Sunnyvale municipal code or other legal authority.

(c) Each such person is guilty of a separate offense for each and every day during any portion of which any violation of the ordinances of the city is committed, continued or permitted by any such person, and may be cited or punished accordingly.

SECTION 2. CEQA - EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project which has the potential for causing a significant effect on the environment.

SECTION 3. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection,

sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 5. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on _____, 2015, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2015, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____

Mayor

(SEAL)

APPROVED AS TO FORM:

City Attorney



City of Sunnyvale

Agenda Item

15-0662

Agenda Date: 7/8/2015

Election of Chair and Vice Chair