

### REPORT TO COUNCIL

#### **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 is one tool to be used in conjunction with other efforts to address homelessness to ensure the City's public areas are kept in a safe, clean and accessible condition. The City will continue to partner with the County's North County Cold Weather Shelter Program and various social service agencies including Sunnyvale Community Services and InnVision Shelter Network to provide proactive case management for the homeless in Sunnyvale.

#### **EXISTING POLICY**

SMC 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**

Adoption of the ordinance is not a project within the meaning of CEQA because it is an operational activity and will not create a significant impact on the environment. (CEQA Guideline 15061(b)(3).)

#### **DISCUSSION**

##### **Proposed Code and Enforcement**

The purpose of the proposed ordinance (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 SMC. The ordinance is not intended to criminalize homelessness or prevent individuals from using public facilities as long as they are not in violation of the municipal code. The new ordinance would allow the City to ask those who are in violation to leave or face enforcement and continue to offer the services that are routinely offered, and available, to ensure transition from parks.

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.

### **Board and Commission Review**

The Parks and Recreation Commission considered this item on Wednesday, July 8, 2015 (15-0597). Commissioners voted 2-2 and the motion to recommend Alternative 1 failed due to the lack of a majority (Attachment 2).

The Parks and Recreation Commission discussed their rationale for voting with those in favor noting that parks and public spaces should be clean, available and safe for community use, and that appropriate park use and homelessness are two separate issues. Those voting against the motion felt that people will continue camping in the parks even if the ordinance were approved, that parks are safe with people camping in them and the enforcement section should be more detailed regarding time between levels of enforcement.

### **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 by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; 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.

### **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.

### **STAFF 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.

### **BOARD/COMMISSION RECOMMENDATION**

The Parks and Recreation Commission voted 2-2 and the motion to recommend 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 failed due to the lack of a majority. No other motion was made. Therefore, no recommendation was made.

Prepared by: Scott Morton, Superintendent of Parks and Golf  
Reviewed by: Craig Mobeck, Assistant Director of Public Works  
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
2. Excerpt of the July 8, 2015 draft meeting minutes of the Parks and Recreation Commission