

Memorandum

TO: DRIVING A STRONG
ECONOMY COMMITTEE

FROM: Sara L. Hensley

SUBJECT: PROPOSED AMENDMENTS TO
THE PDO/PIO ORDINANCES

DATE: 02-16-05

Approved

Paul Krutz

Date

2-18-05

Council District: Citywide

SNI: N/A

RECOMMENDATION

It is recommended that the Committee:

1. Accept this report as additional information regarding the proposed revisions to the Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO); and
2. Request that a public hearing be set by the City Council for Tuesday, April 12, 2005, to consider staff recommendations regarding the proposed amendments to the PDO and PIO, Chapters 19.38 and 14.25, respectively, of the San José Municipal Code, and changes to the associated Fee Resolution with respect to the granting of credit for recreation facilities and dedicated parkland.

BACKGROUND

On November 29, 2004, the Driving a Strong Economy Committee heard staff recommendations regarding proposed changes to the Parkland Dedication Ordinance (PDO) and the Park Impact Ordinance (PIO). The PDO was enacted in 1988 to help meet the demand for neighborhood and community parks generated by the development of new residential parcels. In 1992, the City Council adopted the PIO, which applied parkland dedication requirements to new units in non-subdivided residential projects.

At the November 29, 2004 meeting, the Committee requested staff to conduct further public outreach efforts regarding the proposed changes and to quantify how useful the program has been in expanding the recreational opportunities in the City. The Committee also requested information on school closure impacts as it related to the City's service level objective of 3.5 acres parkland per 1,000 population, in recognition of the significant role that school sites play in

The comments contained within the Parks and Recreation Commission and NAC communications reflect the type of comments received from community representatives during the most recent outreach process. The most common recommendation was to encourage the City to move within two years to achieve 100% of land value for the associated in-lieu fees. In addition, concern was expressed about the proposal to grant parkland credit for urban plazas, widened streetscapes, rooftop gardens and amenities such as swimming pools and community rooms, as well as the proposal to exclude downtown core area developments from the requirement for active recreational elements to receive private recreational credits.

Most notably, the Burbank/Del Monte NAC does not believe that PDO and PIO fees should be used for the development of school sites. In addition, the NAC does not support the recommendation that developers be allowed up to 50% credit for multi-purpose stormwater detention sites with improvements for park use. The NAC does not support the recommendation to defer the collection of PDO and PIO fees for up to two years from the date of Planned Development Permit, Conditional Use Permit, Site Development Permit or Tentative Map approval. The NAC also expressed concern about the use of funds to construct "theaters" referred to in the original recommendation, feeling that improvements constructed with PDO and PIO funding should be more park related.

Staff understands and appreciates the concerns of the NAC. However, the proposed changes to give credit for certain types of public spaces, stormwater detention facilities, and the development of school land are intended to recognize the significant role these land uses can and do play in providing opportunities for recreation and leisure activities in San José and across the country. In staff's estimation, the proposed administrative changes provide a reasonable phasing for builders, developers and private citizens to absorb the economic impact of any future increase in fees. The phasing of fee impacts was of particular concern to the City Council given the continuing economic uncertainties and the Mayor's Getting Families Back to Work initiative. Staff is recommending that wording related to the use of the PDO and PIO for "theaters" in the original recommendation be changed to read as "outdoor event areas" to clarify the intent to provide outdoor space for performances and special events.

The Parks and Recreation Commission is recommending that in lieu fees be adjusted to 85% of the land value commencing on July 1, 2005, and to be at 100% by July 1, 2006. Any change to the ordinances takes 60 day to go into effect after the second reading and thirty days after adoption of the revised fee schedule. Staff is suggesting that any fee increase goes into effect on January 1 of each year to give the development community appropriate notice.

It is important to note that comments relative to the fee amount, timing, and phasing of potential increases will not be acted on at this time, but will be discussed later in the year within the larger context of fee increases associated with FY 2005/06 budget.

Ordinance Impact

The Committee also requested information on the impact of the PDO and PIO programs on the expansion of City-recreational opportunities for San José residents and visitors. A review of

Storm water detention areas used for recreational purposes must contain at least 8,000 square feet of uninterrupted well-drained (2% to 5% slope) useable turf suitable for informal or formal active recreation activities such as field sports or dog park amenities. Such facilities under the private recreational credits would receive full credits as permitted under both ordinances up to the 50% of the obligation cap.

Currently under both ordinances, parkland dedicated to the City must be free of any encumbrances. The multiple use of this property for storm water detention and/or filtering will place a restrictive easement on these properties not related to recreational activities and use. Staff is recommending consideration of such properties if those properties will expand and enhance the City park system. PRNS would only accept such lands if the size, shape, design and/or costs of maintaining such lands are determined acceptable to the Department. These lands must provide active recreational benefits beyond visual open space. The Coyote Valley Specific Plan effort currently proposes the introduction of multi-use areas for active recreational areas including sports facilities.

Recommended Public Hearings

Modifications to the PDO and PIO have been divided into two categories: changes in language related to the administration and application of the ordinance, and potential changes in fee schedules. This memo describes proposed modifications in administration and application. These changes will require the City Council to conduct a public hearing on the proposed modifications to both ordinances. It is recommended that this public hearing take place on April 12, 2005, to consider changes in the language related to the administration and application of the ordinances. Discussion of proposed fee increases will take place in May and June in the context of citywide fee proposals associated with development fees.

CONCLUSION

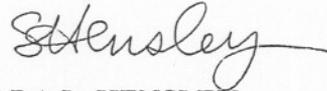
The PDO and PIO are critical tools to assure logical growth and development of the City's neighborhood and community park facilities in response to increased populations generated by new development. The ordinances reduce the impacts new residents have on existing park and recreation facilities by providing new facilities to serve these residents.

The proposed changes to the PDO and PIO will expand the use and impact of the funds while permitting private recreational credits for such improvements as private garden plots, urban plazas and/or private gardens open to the public, and dog park amenities. These facilities can appropriately be provided by the private sector, in lieu of City resources.

PUBLIC OUTREACH

Beyond efforts noted in the November 29, 2004 memorandum to the Committee, staff has initiated e-mails informing City neighborhood associations and SNI NACs of the two public

as trails, community gardens, and community centers. Expenditures are not limited by council district boundaries but are subject to nexus requirements set out in the ordinances.



SARA L. HENSLEY
Director of Parks, Recreation
and Neighborhood Services

- Attachments:
- A – Current Parkland Information
 - B – Current Neighborhood/Community Serving Parkland Needs
 - C – Current Neighborhood/Community Serving School Lands
 - D – DSE Memorandum dated 11-17-04 with attachments
 - E – Letter from the City's Parks and Recreation Commission with attachment
 - F – Letter from the Burbank/Del Monte NAC