



Memorandum

To: City Council

From: Mayor Chuck Reed

Councilmember Pete Constant

Subject: San José Public Library Internet
Access and Computer Use Policy

Date: April 10, 2009

Approved:

Recommendation

We make the following recommendations:

1. Direct staff to revise the San José Library Internet Access and Computer Use Policy to recognize that library computers are used in public areas in the full view of minors and therefore require patrons to behave in a responsible and courteous manner. This policy should appear when computer users login and require users to agree that they have read the policy before proceeding. This policy is modeled after the Santa Clara County Library System.
2. Direct staff to install internet filtering technology to block websites that contain harmful material on all computers designated for use by minors at San José Branch Libraries. This system is used at Santa Clara County Libraries.
3. Direct staff to equip all computers that are not in areas designated for use by minors with filtering technology that can be enabled or disabled by user at time of login. This optional filtering is used by the Santa Clara County Library System. This recommendation will be implemented as funds allow and will be discussed in the context of other budget priorities through the City's annual budget process.
4. Direct staff to work with San José State University in accordance with the existing Memorandum of Understanding on issues regarding internet use by the public in the Martin Luther King Jr. Library, before proceeding with changes in the Martin Luther King Jr. Library.

Analysis

These recommendations were developed with the following guiding principles in mind:

1. Minors should not have access to, or be exposed to, pornography in our libraries.
2. The public should not be exposed to second-hand porn.

3. Library computers should not be used to access child-pornography or other illegal material.
4. Policies and practices must be implemented within the constitutional limits established by the United States Supreme Court.

The recommendations outlined in this memo can be implemented in a phased approach in order to minimize fiscal impact.

Phase 1: *San José Library Internet Access and Computer Use Policy*

The first phase in this proposal is to revise the San José Library Internet Access and Computer Use Policy to include the following language:

San José library patrons are expected to use library computers in a responsible and courteous manner. Computers are located in public areas and shared by people of all ages and backgrounds. Internet users must be considerate and respectful of other library patrons, and especially mindful of children in the library. Use of public computers for internet access to material that depicts sexual conduct of minors under the age of 18 or that displays material harmful to minors may violate different Penal Code provisions, such as Penal Code Sections 311.11 and 313.1, which may constitute a misdemeanor or felony offense under California law. A potentially unlawful use of public computers may be referred to law enforcement personnel for appropriate action.

Violations of this policy should be handled like other violations of library policy, such as excessive noise or other disruptive behavior.

Recommendation 1 (phase 1) is cost-neutral, because it simply amends the computer use policy. It sets a clearly defined standard of behavior in the use of library computers and will give librarians the tool they need to ensure that computer users are being courteous to those around them and sensitive to the fact that children are present.

Phase 2: *Filter Areas designated for use by minors*

The second phase of this recommendation is to install internet filtering technology to block websites that contain harmful material on computers designated for use by minors at San José Branch Libraries. Installing filters on computers designated for use by minors is reasonable and prudent. Parents who bring their children to the library have a reasonable expectation that harmful material is not available in any form in areas specifically designated for use by minors.

Recommendation 2 (phase 2) requires a nominal capital investment of equipment and licenses that can be dealt with through the City's regular budget process. Training for staff is reduced, because the blocking software will be only on computers in areas designated

for use by minors. If someone wishes to view a blocked website they need only move to a computer in another area of the library.

Phase 3: *Warning System*

When funds are available, the remaining computers should be equipped with filtering technology that can be enabled or disabled by user at time of login. This recommendation will be implemented as funds allow and will be discussed in the context of other budget priorities through the City's annual budget process.

Recommendation 3 (phase 3) requires greater investment in hardware and software for computers not designated for use by minors, because of the greater number of computers, but will not require significant staff costs. The computers addressed in this phase will utilize a user-disabled system similar to that used by the Santa Clara County Library System. These computers require no staff monitoring or additional training.

Phase 4: *Working Group with San José State University*

The City of San José has a unique relationship with San José State University (SJSU) regarding the Martin Luther King Jr. Library. This relationship is governed by an operating agreement that, among other issues, prohibits the city from restricting SJSU users from access to library materials. This agreement has been amended twice since it was first executed. These amendments have established a precedent for collaboratively addressing the needs of the two populations this facility serves.

SJSU has registered initial concerns over the concept of utilizing internet filtering technology and the potential for hindering internet access for SJSU students, faculty and staff. In recognition of how important the partnership with SJSU is, the San José Library staff work with San José State University, as they have before, to determine what mutually beneficial solutions are available to install internet filtering software on the computers at the Martin Luther King Jr. Library that would protect children from viewing pornography in areas designated for use by minors and establish a warning system for members of the general public using the remaining computers. Any possible solution would have to ensure unfettered internet access to all SJSU students, faculty and staff.

One possible solution would be to change the computer login procedure to differentiate between SJSU users and the general public in order to allow SJSU users unfiltered sessions.

Recommendation 4 (phase 4) if successful would likely require purchasing additional licenses to implement policies similar to recommendations 2 and 3 at the Martin Luther King Jr. Library only if an agreement has been reached with San José State University. However, this phase will still only require nominal staff training and no monitoring.