



COUNCIL AGENDA: 04-06-10
ITEM: 4.3

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Lee Price, MMC
City Clerk

**SUBJECT: SPECIAL EVENT SERVICES
AND COSTS**

DATE: 03-25-10

RECOMMENDATION

As recommended by the Community and Economic Development Committee on March 22, 2010 and outlined in the attached memo previously submitted to the Community and Economic Development Committee, accept staff's progress report and adopt strategies to reduce costs charged to outdoor special event producers and increase their revenue generation capabilities.



Memorandum

TO: COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE
FROM: Kerry Adams Hapner
SUBJECT: Special Event Services and Costs
DATE: March 5, 2010

Approved

Paul Kost

Date

3/10/10

Council District: City-Wide

RECOMMENDATION:

Accept staff's progress report and forward a recommendation to City Council to adopt the strategies to reduce costs charged to outdoor special event producers and increase their revenue generation capabilities.

OUTCOME

Adoption of the proposed strategies to increase revenue generation opportunities and contain costs for outdoor special event producers, with the goal of promoting outdoor special events that generate economic impact and cultural vibrancy for the City of San Jose.

BACKGROUND

Since the progress report to the Community and Economic Development Committee (CEDC) in December 2009, staff has identified a package of changes to address the concerns of Event Organizers over high, rising and uncertain City service and permit costs for the production of outdoor special events.

The Office of Cultural Affairs (OCA) convened staff in the Police Department (PD); Fire Department (FD); Department of Transportation (DOT); and Parks, Recreation and Neighborhood Services (PRNS); City Manager's Office (CMO); City Attorney's Office (CAO); and the Budget Office to identify ways to: 1) control costs to Event Organizers and 2) increase revenue generation opportunities during events. Multiple work sessions were held with the major event producers to identify and address the issues that are most problematic. Exhibit A identifies the range of City permit and service fees for outdoor special events. The goal was to create a package of solutions that can be implemented for the 2010 events season and link appropriately with the 2010-11 budget process, supporting a portfolio of events that are viable and sustainable. Staff approached the analysis of current policies/practices and the development of recommended changes with the following underlying principles:

- **Value Outdoor Special Events.** More than 400 events are produced outdoors each year that have community-building value and economic impact. The largest events generate substantial Transit Occupancy Tax (TOT) and sales tax revenue. For example, an analysis of the economic and fiscal impact of cultural and sporting events in San Jose, presented to City Council on April 10, 2007, reveals that the economic impact of five San Jose outdoor events generated \$1.4 million in sales tax, parking revenue and TOT (Exhibit B). Many of these outdoor special events are chiefly produced by nonprofit organizations, often with a charitable objective and low ability to sustain financial risk.
- **Direct Cost Recovery.** In 1993, during the Council's last comprehensive review of special event costs, the Council affirmed a policy of the City recovering only the actual, additional costs incurred for supporting and servicing outdoor special events. This principle remains valid and appropriate.
- **Minimizing Service Costs is a Shared Responsibility.** It is the responsibility of both City staff and the event producers to minimize City service requirements and costs for outdoor special events. OCA works to ensure that the level and mix of City services required by different departments are at the minimal level necessary to execute a safe event. Reliable costs estimates are necessary for planning in advance of the event. Event producers have a responsibility to design and manage their events to minimize costs and financial risk.
- **Consistent and Fair Treatment.** Special event producers should expect to be treated in a fair, consistent, and transparent manner. Fees adopted by Council should be applied uniformly to all outdoor special events. Events with unpaid debts to the City should also be treated in a similar fair, consistent and transparent manner.

ANALYSIS

To allow for immediate implementation in the summer 2010 event season, this recommendation is intended to coordinate budget-related initiatives with the budget cycle proposals for Fiscal Year 2010-11. A package of ten strategies in the categories of 1) revenue generation and 2) cost reduction is proposed.

Revenue Generation

1. Suspend the collection of the 5% of gate fees for ticketed events effective January 1, 2009 through Fiscal Year 2011-12. Revising the City's rate resolution to suspend this collection will allow Event Organizers who choose to gate and collect ticket fees for outdoor events to retain all of the revenues created by ticket sales. The 5% of collected gate fee revenue has been used to augment the TOT funded Festival, Parade and Celebration (FPC) Grant Program administered by the OCA. The suspension of the fee will reduce the amount of funds available for FPC grants by about \$25,000 - \$30,000 annually. Endorsed by the Arts Commission and supported by the major event organizers that receive FPC grants, this proposal will be submitted by PRNS and OCA as part of the Fees and Charges Resolution for Fiscal Year 2010-11. A recommendation to amend the current rate

resolution to eliminate the current requirement to collect 5% of gate fees for the period of January 1, 2009 to June 30, 2010 and refund \$375 to an Event Organizer who paid fees during this timeframe will be presented for Council consideration on April 6, 2010.

2. Increase the cap on daily ticket prices from \$15 to \$30. Increasing the allowable ticket price for gated park events could enable Event Organizers to generate more revenue while maintaining that events held on City property are publically accessible through affordable prices. This proposal will be presented for Council consideration as part of the Fiscal Year 2010-11 Fees and Charges Resolution.

3. Increase the number of vendor booths allowed in Plaza de Cesar Chavez. Increasing the number of booths for more revenue opportunities for Event Organizers while off-setting the additional costs associated by PRNS staff to maintain the expanded footprint of vendor booths. This may require amendments to various policies or ordinances.

Cost Reduction

1. Implement a Pilot Program to utilize DOT's Parking, Traffic and Control Officers (PTCO). In combination with traffic control devices, the implementation of a PTCO model would safely maintain event street closures at select intersections. PTCO services would complement the services of Police Officers, whose hourly rates are higher. Staff from DOT, OCA, and PD will identify "pilot" events to evaluate the best applications of this new model. The ratio of PTCO to PD staff may vary depending on event location and complexity. If the pilot program proves to be successful, staff will establish standards for the on-going use for a blended staffing model and minimal equipment requirements for events. Implementation of this program is dependent on retention of the DOT Special Events Team in the 2010-11 budget. Cost savings for this program is based on hourly savings for the deployment of PTCO to complement PD Officers, primarily Secondary Employment Unit (SEU) Officers. Many cities let event organizers use non-sworn personnel close streets for special events including the cities of Oakland, Fremont, Detroit, Ventura, Huntington Beach and Hollister.

2. Create a series permit for commercially zoned private property in the Downtown Core. A new permit will be brought forward for Council consideration as part of the Fiscal Year 2010-11 Fees and Charges. This new permit will allow for more flexibility in commercially zoned areas of private property in the Downtown Core (e.g. an outdoor film series held in a private parking lot). Rather than pay a permit fee of \$850 per Downtown private property event, an event producer could obtain a series permit for up to three recurring events held within four months for a proposed cost of \$1,200, saving both time and cost to the City and the Event Organizers. Any additional modifications for private property permitting requirements would require Municipal Code revisions and funds for Planning, Building and Code Enforcement (PBCE) staff to conduct the work.

3. Restructure the hourly rate for Fire Safety Inspections, Fire Safety Permits, and Plan Reviews. The hourly rate for City service costs has been highest for fire inspections. This is because the Bureau of Fire Prevention operates on a 100% cost recovery basis, and charges its staff services at an hourly rate that includes salary, fringe, City overhead, and Department overhead. The

Administration plans to bring forward a proposal to restructure the one time non-renewable Fire Safety permit and inspection fees for outdoor special events based on a blended rate of regular and overtime hours. Adjusted fees and charges for outdoor special events should have a lower overall hourly rate.

4. Potential Repeal of Traffic Enforcement Unit (TEU) Police Officers special event fee. This new fee, a charge for on-duty TEU officers when they support events, was implemented in Fiscal year 2009-2010. This fee is currently being reviewed by the City Attorney and Budget Office.
5. Create "turnkey" event coordination requirements in the SoFA and San Pedro Square areas of the downtown. A "turnkey" option in specific areas of the Downtown Core will allow Event Organizers to produce events with the same standard elements (i.e. street closures) and known costs, which will animate key areas in the Downtown Core as event sites.
6. Review and update the PRNS policies and guidelines for events held in both regional and neighborhood parks. PRNS staff has conducted the specific requests for parks with the intent to balance revenue generation with cost effective event management practices. The results of the analysis are as follows:
 - *Allow fees for neighborhood events to be waived and allow volunteers to perform simple tasks such as park clean-up.* The current practice by PRNS is to accommodate this arrangement by collecting a deposit for simple tasks, such as, park clean-up. If an Event Organizer successfully completes the task, the deposit is returned and no fees are charged. Due to inconsistencies among Event Organizers, the current practice is the most appropriate means to ensure clean-up standards are met.
 - *Waive fees where no or negligible incremental costs arise to the City.* As part of the neighborhood park event guideline review, PRNS will consider a reduced permit fee for neighborhood associations that meet certain criteria. PRNS staff expects to begin the neighborhood event guideline review within the next few months and implement any changes during the summer event season.
 - *Allow both for profit and non-profit groups to activate public parks for events and examine a tiered pricing system, with consideration given to recognized neighborhood associations, and a preference for long-standing re-occurring events.* PRNS staff is seeking legal guidance to confirm the ability to allow for profit and non-profit groups to activate public parks for events. If permissible, PRNS staff will develop the criteria for a tiered pricing model by July 2010 with intent to implement the changes in February 2011. The policy to allow preference for long-standing re-occurring events currently exists.
 - *Increase allowable number of booths at Plaza de Cesar Chavez Park.* PRNS staff will propose as part of the Fees and Charges resolution to allow more booths based on approved guidelines, fire and safety regulations and available infrastructure support.

It is anticipated that a footprint to allow more booths in the park along with a modified fee structure will be available by July 1, 2010.

- *Modify the "Series Event" definition to allow events on a consistent schedule, even if not on a successive week.* PRNS's review of the series event fee structure shows that a significant cost reduction of 50% to 89% is already available to event promoters who utilize the series event fee structure. A change in the definition of a series event would increase staff costs for supporting such events. Staff will further review the fee structure and definition, and anticipates a modified version for the definition of the series event and fee structure by July 1, 2010.

7. Promote the *Outdoor Event Cost Saving Planning Tips*. Jointly created by Event Organizers and City staff, this guide includes practical event management techniques for conducting cost-effective events. The guide is available on the OCA website at www.sanjoseculture.org.

There are several items which evolved from our discussions with the Event Organizers and the memorandum (attached) presented by Councilmember Liccardo and Pyle, which required an assessment of any legal issues. These items have been submitted to the City Attorney's Office for response.

EVALUATION AND FOLLOW-UP

Upon CEDC's feedback on these recommendations, staff will immediately advance the proposed solutions to the full City Council.

POLICY ALTERNATIVES

None of the current recommendations require policy changes or alternatives. Potential revisions to private property permitting will likely require Municipal Code revision.

PUBLIC OUTREACH/INTEREST

- Criterion 1: Requires Council action on the use of public funds equal to \$1 million or greater.
- Criterion 2: Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City.
- Criterion 3: Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach.

This memorandum will be posted on the City's website for the March 22, 2010 CEDC meeting. This item was discussed at the September 9 and November 12, 2009 public meetings of the Arts Commission and the December 14, 2009 CEDC Meeting.

COORDINATION

This memo has been coordinated with the Manager's Budget Office, CAO, DOT, PD, GSD, CMO, PRNS and FD.

FISCAL/POLICY ALIGNMENT

This project is consistent with the Economic Development Strategy's vision of San Jose as a unique creative and cultural center of Silicon Valley and as the world's most livable big city, with diverse and distinctive qualities of life.

COST SUMMARY/IMPLICATIONS

Budget implications for the proposed changes for the Fire Safety Inspections and Police Department fees may have budget implications relative to City revenues. Any recommendations that impact the budget will be brought to Council for action. Any modifications to the Municipal Code related to the permitting of outdoor special events on private property would require a source of funding for PBCE staff to conduct the work.

CEQA

Not a Project.


KERRY ADAMS HAPNER
Deputy Director, Cultural Affairs

For questions, please contact TAMMY TURNIPSEED, SPECIAL EVENTS DIRECTOR,
at (408) 277-5144, ext 22.

Attachment: November 4, 2009 Rules Committee Memorandum from Council members Liccardo and Pyle on Reducing the Fee Burden on Organizations Hosting Festivals and Events

EXHIBIT A: WHAT ARE THE FEES?

- OCA: Permit fees to use Downtown paseos; Private property events
- Police SEU: Permit fees for temporary street closures/parades; Alcohol & Beverage Control; Hourly staff fees oversight of alcohol sales and traffic management
- Fire: Permit fees for inspection of tents, canopies and temporary membrane structures, parade floats, and fireworks/pyrotechnics; Hourly fees for fire safety inspections not covered by permit fees. Permit fees can include 1 hour of plan review and 1 hour of inspection time.
- Transportation: Permit fees for tow zone; Hourly staff fees for equipment delivery; Equipment rental fees
- PRNS: Permit fees for park use and event application; Hourly staff fees (at overtime rate) to monitor park activities
- General Services: Hourly fees for staff equipment installation
- Police TEU: Overtime hourly fees for traffic management by TEU staff

**EXHIBIT B: ANALYSIS OF THE ECONOMIC IMPACT OF
 FIVE OUTDOOR SPECIAL EVENTS IN SAN JOSE**

Event	Economic Impact from Outside Visitors	Net New Incremental City Tax Revenue (TOT, Sales Tax, Parking)
Rock N' Roll Half Marathon (2006)	\$16.5 million	\$554,900
San Jose Jazz Festival (2006)	\$10.9 million	\$312,400
Tapestry Arts Festival (2006)	\$12.4 million	\$251,400
ZERO1 Biennial (2006)	\$9.3 million	\$225,453
Mariachi Festival (2006)	\$1.5 million	\$22,600
Amgen Tour of California (2007)	\$1.9 million	\$42,300
TOTAL	\$52.5 million	\$1.4 million

Attachment

RULES COMMITTEE: 11-04-09
ITEM: 1.1



Memorandum

TO: RULES COMMITTEE

FROM: Councilmember Sam Liccardo
Councilmember Nancy Pyle

SUBJECT: Reducing the Fee Burden on
Organizations Hosting Festivals and
Events

DATE: October 26, 2009

APPROVED:

Sam Liccardo
RLH

Nancy Pyle 10/27/09

RECOMMENDATION

Return to the Community and Economic Development Committee in November, or at the earliest opportunity thereafter, to identify strategies and policy changes to reduce the burdens of city fees on nonprofits, neighborhood organizations, and other sponsors of events.

BACKGROUND

Festivals and events add vitality to our city, enliven and unify our neighborhoods, stir our collective pride, and help us to recognize what is unique about San José. Events also serve as crucial fundraisers—particularly in a time of declining donations, foundation grants, and government assistance—for our non-profit service and cultural organizations. They provide a sense of identity and community for neighborhoods and they often provide additional foot traffic for nearby restaurants and businesses. Those events produced by only six of downtown's established event producers bring more than 670,000 people to our core, provide \$22.5 million in economic impact, and generate more than 170 days of activity throughout the year. Particularly in times like these, we should make it as easy as possible to enable organizations to bring our residents and visitors together to celebrate, commemorate, and enjoy our wonderful city. They can also have more grass root impacts in neighborhoods by bringing residents together to activate neighborhood parks and streets.

Increasingly, we have heard concerns from non-profit leaders and event producers that the cost of city fees, shrinking city grants, and declining sponsorship revenue have made it difficult for organizations to continue to host events. Several events have been cancelled amid the 2009 downturn, and others might not return in 2010.

As fee-related complaints arise, the understaffed Office of Cultural Affairs (OCA) diligently and competently works to "negotiate down" requirements and fees with city departments such as Fire, Public Works, Parks, Police, and Transportation. Nonetheless, event producers often hear the message that city staff must abide by the fee schedules established in each year's budget, fees which are set in conformity with Council's policy of "full cost recovery".

The conversation should not end with the familiar refrain that relies upon "full cost recovery." It overlooks the fact that *many of these costs may not need to be incurred* in the first instance. While

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our deficit-plagued budget should not subsidize events, it seems fair to ask whether the costs we're imposing are truly necessary.

Just a few anecdotes that illustrate the unintended consequences of some city policies:

- The Wesley United Methodist hosted a summer festival on its own parking lot, without the use of any city streets, sidewalks, or property, and seemingly no involvement of city staff. Nonetheless, council policy required the church to pay an \$800 fee to the city for a permit.
- The America Festival cancelled its event in 2009 as a result of declining sponsorships and city funding, but the city fees in the event add considerably to the burden—and to the obstacles—of bringing the America Festival back to downtown on July 4th of 2010. For example, the Festival producer must pay tens of thousands of dollars for Police and DOT management of the thousands of fireworks-gazers who congregate on city streets outside of the event's gates, even though their presence brings no revenue to the producer. Most fireworks watchers who gather in the streets outside the event gates think the fireworks are a free, city sponsored event.
- For small, free events, city fees and charges can account for disproportionately high percentage of an event's budget. For example, South First Fridays Street Market and Starlight Cinemas report city service costs as nearly 40% of their budget. Neighborhood-supporting events, such as the Northside/ Backesto Park Flea Market, pay even higher proportions of their costs to the city.

These are just some of the hurdles that event producers face. Fortunately, OCA staff has already started exploring several opportunities to shave costs for events in 2010. We encourage them to push forward with their efforts, and urge Council to take action no later than February of 2010, when many event producers need to make decisions about summertime events.

Among the alternatives which the OCA staff—and we—should consider include:

Cost Control

- For neighborhood events, allow fees to be waived where the organization's leader signs a commitment to have volunteers perform simple tasks—such as park cleanup—for which the City is charging a fee. If the volunteers fail to perform the task adequately, then the fee can be assessed retroactively for city cleanup.
- For nonprofit or neighborhood events held on private property requiring no or little city staff involvement, eliminate the fees.
- Review police deployment models of secondary employment at events to avoid excessive staffing and use other city staff where they can perform the same task for less (e.g. Department of Transportation parking and traffic control officers).

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- Eliminate minimum inspection durations where not mandated by union contracts, and engage with department heads to determine if inspections can occur during working hours to avoid overtime charges.
- Where liability-shifting provisions appear lawful and effective, minimize repeated city inspections of the same routine structures—such as tents—and merely incorporate an “assumption of liability” clause within the contract with the producer.
- Waive fees where no or negligible incremental cost arises to the City.
- Suspend the 5% gate fee for enclosing parks, such as at Cesar Chavez, so event producers can retain this revenue.

Revenue Generation

- Consider increasing the current \$15 limit on the ticket price events can charge for gated events.
- Revise policies and guidelines, mainly in our parks, to allow for more revenue generating opportunities for event organizers (e.g. increase the number of vendor booths allowed in a park, and increase the potential number of fenced parks for which admission can be charged).

Park Use Regulation

- Definitions associated with park use fees need review. For example, the definition of a “series” should be expanded so that events with a consistent schedule—even if not occurring on successive weeks—can benefit from a reduced “series” rate.
- Allow a larger window of time for post-event cleaning to occur, to permit a more flexible and cost-effective means of clean-up.
- Allow both for-profit and non-profit groups to activate public parks for events. Staff should examine a tiered pricing system, with consideration given to recognized neighborhood associations, and a preference for long-standing, recurring events.

We look forward to the results of the staff's efforts and encourage appropriate discussion with the Arts Commission and Parks Commission.