



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Norberto Duenas

**SUBJECT: AMENDMENT TO PILOT
PROGRAM FOR MAINTENANCE
FUNDING FOR NEW PARK FACILITIES**

DATE: 05-27-11

Approved

Date

6/2/11

COUNCIL DISTRICT: Citywide

RECOMMENDATION

Adopt a resolution to amend and restate the policy and pilot program approved by the City Council on November 16, 2010 that authorized City staff to proceed with the development of any new park or recreational facility if long-term non-General Fund funding for maintenance is identified to (i) remove any reference to "trail" from the policy, and (ii) expand the policy to allow more residential development projects to take advantage of the policy and pilot program by receiving credit against their parkland fees in exchange for providing long-term maintenance of a new park or new recreational facility.

OUTCOME

Removing references to trails will clarify that the development of trails will not require City staff to identify long-term non-General Fund funding for maintenance prior to the development of the trail. Additionally, expanding the policy and pilot program will provide the opportunity for certain projects to move forward during this economic downturn by allowing them to receive credit against their parkland fees in exchange for providing funding for at least ten years of maintenance for a new park or new recreational facility.

BACKGROUND

Project Status

On February 9, 2010, the City Council approved staff's recommendation to delay new park and recreation capital projects in order to avoid the impact of ongoing operations and maintenance costs to the General Fund.

On November 16, 2010, the City Council adopted Resolution No. 75638 (attached) which provides various mechanisms for proceeding with development of new parks and recreation facilities that will minimize impact to the General Fund. Adoption of Resolution No. 75638 authorizes the City Manager to move forward with the construction of new recreational facilities if non-General Fund funding is identified to provide for a three year park establishment period *and/or* for long-term maintenance of the new recreational facility. Preferably, the combination of the park establishment period and long term maintenance mechanism will provide for at least a 10 year period before the maintenance of the facility would need to be supported by the City's General Fund. Additionally, the Resolution authorizes the following to assist with funding for new park and new recreational development and maintenance:

1. The ability to pay for a three year park establishment period with parkland fees and Construction & Conveyance taxes (C&C) as part of the construction bid on the project;
2. The ability to credit a developer's parkland fees if the developer provides an equivalent monetary donation for at least 10 years of park maintenance of the new recreational facility;
3. The ability to exempt donated park establishment services and park maintenance of at least two years from prevailing wage.

Items 1 and 2 above are part of a Resolution guiding a pilot program that expires on December 31, 2012. Item 3, the prevailing wage exemption, is not a part of the pilot program and is a tool for staff to continue to seek public/private partnerships for donated park maintenance for new or existing facilities.

As set forth in the Resolution adopted by the City Council, parkland fees and C&C taxes can be used to fund a three year park establishment period provided that including such funding does not prevent funding the development of a Greenprint priority facility. The Resolution authorizes the City Manager to negotiate and execute agreements with developers willing to receive credit for some portion of parkland fees. Where this occurs, the developer contributes a stipulated amount to be deposited in a "maintenance fund" for a minimum of 10 years of park maintenance for a facility within the development's nexus, provided that including such contribution in a "maintenance fund" does not prevent funding a Greenprint priority project. For example, if a developer is required to pay parkland fees for its residential development and its development is within the nexus of a Greenprint priority neighborhood or community park or trail which needs development funding, then that developer would not meet the requirements of the pilot program. This is important because the primary goal of the parkland fees is to provide for the development of parks, trails and community centers for the new residents who are paying the fees. If providing a credit for maintenance takes away from the City's ability to build these new facilities, the City will continue to lose ground in meeting the service level needs of the residents.

The Resolution requires staff to identify non-General Fund funding for a three year establishment period and/or "long-term maintenance" before proceeding with construction of a new recreational facility. However, the length of time for the "long-term maintenance" is left to the discretion of the City Manager. The City Manager will use the following general guidelines to determine the appropriate length of "long-term maintenance" required for each project before moving forward with construction:

- Every attempt should be made to identify non-General Fund funding of at least seven years for park maintenance after the completion of the park establishment period, or for ten years total if a park establishment period is not included on the particular project, before agreeing to a shorter period of time;
- While the City Manager may agree to a shorter period of time than 10 total years, the period of time should be greater than three years.

Resolution No. 75638 provides further detail on the actions taken at the November 16, 2010 Council meeting and is attached to this memo for reference.

ANALYSIS

Since the adoption of the Resolution, the City has entered into a revised parkland agreement with Sobrato Corporation to provide \$400,000 credit against their parkland fees. This \$400,000 has been placed in a City fund for the maintenance of Newhall Park. It is estimated that this will provide between 17 and 20 years of maintenance for the park. The Newhall Park construction contract was awarded by City Council on May 24, 2011.

In addition, Irvine Company has approached the City requesting a credit against their parkland fees for the River Oaks Development. Because the \$1.2 Million in fees is required to build out additional Greenprint priorities in North San Jose, Irvine Company does not currently qualify for the credit which means that the River Oaks Turnkey Park would remain on hold. After evaluating this situation, staff feels that the requirement of needing the funding for another Greenprint priority which was included in the original resolution was un-necessarily causing development of additional parks (such as River Oaks) to remain on hold. For this reason, staff is recommending lifting this requirement from the pilot program. Since the pilot program expires at the end of 2012, staff is not certain that any other projects will be able to move forward based on the lifting of this requirement but if a major development occurs near one of the on-hold projects they could also take advantage of this change to the resolution. In a review of new park facilities that are currently on hold, there is planned housing development near Mabury/Commodore and Pellier Parks so it is likely that these facilities will be able to take advantage of this resolution amendment and move forward in the next few years, along with River Oaks Park. In addition, the resolution adopted by Council in November was not clear regarding the policy in regards to trail development. As part of the 2009 Greenprint update, and as was clearly stated in the November 9, 2010 City Council memorandum, new trail development is not subject to being on hold pending identification of maintenance funding.

In addition, this action will serve to repeal the previous resolution and restate the entire November 2010 policy in a new resolution to be effective immediately upon adoption by City Council. This will help avoid any potential confusion in the future by having two separate resolutions.

EVALUATION AND FOLLOW UP

Staff will report back to the Mayor and City Council on an annual basis as part of the budget process and as needed when new funding mechanisms are identified which would allow for development of a particular park to continue.

POLICY ALTERNATIVES

Alternative #1: Leave the resolution as-is.

Pros: This would potentially provide more capital funding for the City as fewer developers would be able to receive credit against their parkland fees for maintenance.

Cons: This could have the reverse impact of slowing down development as developers will not be incentivized to build in new communities if the City is not opening up new parks in the communities.

Reason for Not Recommending: Removing the requirement that the parkland credit and park establishment can only be used if they are not taking funding from a Greenprint priority project has proven too restrictive with only Newhall Park qualifying. Lifting the requirement will allow a limited additional number of projects to move forward during this pilot period.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- 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. **(Required: E-mail and Website Posting)**
- 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. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

The proposed Council action meets criteria numbers 2 and 3 above. A public hearing will be held at the June 1, 2011 Parks and Recreation Commission meetings and this memorandum will be posted on the internet for the June 14, 2011 City Council meeting.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

FISCAL/POLICY ALIGNMENT

This Council item is consistent with Council approved Budget Strategy Memo General Principle #2, “We must focus on protecting our vital core City services.”

COST SUMMARY/IMPLICATIONS

As noted in Attachment A of the November 9, 2010 memorandum to Council, the eventual operating and maintenance impact to the General Fund once all current “on hold” parks and community center projects are completed is approximately \$729,000. However, this includes projects which are not yet fully funded for construction. There is no anticipated additional impact to the General Fund for this proposal until at least ten years after a project is completed so the earliest General Fund impact of this recommendation would be at least eleven years out (since it would take at least one year to build a project), or in 2022. If this action is approved and if projects move forward, PRNS will work to identify alternative funding sources for maintenance prior to the expiration of the ten year timeline. As mentioned in the analysis section, it is highly likely that River Oaks Turnkey Park will move forward immediately upon adoption of this resolution and there is a strong possibility that Mabury/Commodore and Pellier Parks will also be able to move forward in the next few years based upon staff analysis of future development projects near these park facilities. Including Newhall Park which was awarded for construction by the City Council on May 24, 2011, these five projects total approximately \$150,000 annually in maintenance costs. However, as stated above, the earliest that the General Fund would be responsible for the operations and maintenance of these facilities is the year 2022.

BUDGET REFERENCE

Not applicable

CEQA

Statutorily Exempt, File No. PP10-067(a), CEQA Guidelines Section 15273, Rates, Tolls, Fares, and Charges.

/s/

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For questions please contact Matt Cano, Division Manager, at 408-535-3580.