

Distributed on:

NOV 29 2011

City Manager's Office

Sent to Council:



Memorandum

**TO: HONORABLE MAYOR
AND CITY COUNCIL**

FROM: Leanna Bieganski

SUBJECT: Early Council Packet

DATE: November 29, 2011

Approved

Date

11/29/11

EARLY DISTRIBUTION COUNCIL PACKET FOR DECEMBER 13, 2011

Please find attached the Early Distribution Council Packet for the December 13, 2011 Council Meeting.

3.x Report on Request for Proposal for Landscaping Maintenance Services for Small Parks and Civic Grounds.

Recommendation: Report on Request for Proposal (RFP) for Landscaping Maintenance Services for Small Parks and Civic Grounds and adopt a resolution authorizing the City Manager to:

- (a) Negotiate and execute an agreement with Bayscape Landscape Management, Inc. (Alviso, CA) for Landscaping Maintenance Services for Small Parks and Civic Grounds, for an initial three-year term ending December 27, 2014, in an amount not to exceed \$1,368,000.
- (b) Execute three one-year options to renew the agreement, subject to the appropriation of funds.
- (c) Execute change orders as required to add or delete sites, or change service levels due to seasonal changes or budget constraints, subject to the appropriation of funds.

CEQA: Not a Project, File No. PP10-066 (e). Agreements and Contracts. (Finance)

4.x Ordinance Amending the Sign Code.

Recommendation: Approve an ordinance amending Chapters 23.02 and 23.04 of Title 23 of the San José Municipal Code to:

- (a) Create a Stevens Creek Urban Village Signage Area and an Oakridge/Blossom Hill Urban Village Signage Area to allow special sign standards for an Urban Village Area characterized by existing large-scale commercial development;

- (b) Establish a three-year pilot program to allow for programmable electronic signs as components of freestanding signs within a sub-area of the Stevens Creek Boulevard Urban Village and the Oakridge/Blossom Hill Urban Village Signage Areas;
- (c) Amend the minimum height requirement for buildings as relates to skyline signs and eliminate restrictions on skyline or roof signs adjacent to a park;
- (d) Increase the allowed area and allowable display height for fin signs, and allow greater flexibility for their location; and
- (e) Increase the allowable signage area for freeway signs, and provide greater flexibility for the use of height exceptions to address grade differential.

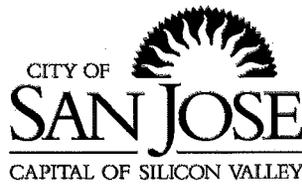
CEQA: Negative Declaration, File No. PP10-111 and PP11-099. (Planning, Building and Code Enforcement)

5.x Amendment to the Schedule of Parkland In-Lieu Fees and Credits.

Recommendation: Adopt a resolution amending the Schedule of Parkland In-Lieu Fees and Credits (Resolution No. 73587, as amended) charged pursuant to the Park Impact and Parkland Dedication Ordinances (Chapters 14.25 and 19.38 of the San José Municipal Code) to provide an additional deferment of payment of parkland fees, interest and penalty until January 15, 2013, or the date of issuance of the first building permit for residential construction, whichever occurs earlier, for projects that currently have an approved parcel or final map by the City and have not been issued a building permit by the City for residential construction. CEQA: Not a Project, File No. PP10-067(a), adjustments to fees, rates, and fares. (Parks, Recreation and Neighborhood Services)

These items will also be included in the Council Agenda Packet with item numbers.

/s/
LEANNA BIEGANSKI
Council Liaison



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Julia H. Cooper

SUBJECT: SEE BELOW

DATE: November 22, 2011

Approved

Date

11/29/11

**SUBJECT: REPORT ON REQUEST FOR PROPOSAL FOR LANDSCAPING
MAINTENANCE SERVICES FOR SMALL PARKS AND CIVIC GROUNDS**

RECOMMENDATION

Report on Request for Proposal for Landscaping Maintenance Services for Small Parks and Civic Grounds and authorize the City Manager to:

- (a) Negotiate and execute an agreement with Bayscape Landscape Management, Inc. (Alviso, CA) for Landscaping Maintenance Services for Small Parks and Civic Grounds, for an initial three-year term ending December 27, 2014, in an amount not to exceed \$1,368,000
- (b) Execute three one-year options to renew the agreement, subject to the appropriation of funds.
- (c) Execute change orders as required to add or delete sites, or change service levels due to seasonal changes or budget constraints, subject to the appropriation of funds.

OUTCOME

Preserve the maintenance of small parks and civic grounds so that these amenities continue to be clean, green and safe for the community.

BACKGROUND

Prior to July 2011, City staff performed landscaping maintenance services for small parks and civic grounds. In preparation for the proposed 2011-2012 budget, staff evaluated the service

delivery model to determine whether in-house landscaping maintenance services could be provided more cost effectively. Pursuant to Council Policy 0-41, a preliminary business case analysis was transmitted to the Council in February 2011 identifying small parks and civic grounds as an alternative service delivery candidate for a cost reduction proposal for the 2011-2012 Proposed Budget. In March 2011, a preliminary business case analysis was published evaluating Parks, Recreation and Neighborhood Services (PRNS) delivery model for providing landscaping maintenance services to small parks and civic grounds. The analysis compared the PRNS model with other City departments that have outsourced landscaping maintenance services (Public Works and Department of Transportation) as well as other local public agencies.

As part of solving the approximately \$115 million 2011-2012 General Fund shortfall, the 2011-2012 Proposed Operating Budget, which was issued on May 2, 2011, included a recommendation to outsource this service generating savings of \$260,000. The Administration issued the final business case analysis on May 27, 2011, through the Manager's Budget Addendum #41. Based on the aforementioned evaluation, the business case concluded that a contracted service model would generate estimated savings of \$260,000 in 2011-2012 while providing the same level and quality of service. In the Manager's Budget Addendum, staff recommended that the City proceed with a private contractor to provide landscaping maintenance services, and to retain in-house staff to provide the required supplier and contract management to oversee the program.

In July 2011, Staff issued an interim six month purchase order with Jensen Landscaping (Jensen) to give staff sufficient time to complete a competitive Request for Proposal (RFP) process. Jensen was selected for this interim purchase order because they had been selected, through a competitive Request for Proposal (RFP) process, to provide similar services for the Department of Transportation in Community Facility Districts 2 and 3.

ANALYSIS

On June 30, 2011, the Finance Department released a Request for Proposal (RFP) for Landscaping Maintenance Services for small parks and civic grounds on the City's e-procurement system. 41 companies downloaded the RFP, and four proposals were received by the August 23, 2011, due date as follows:

- Bayscape Landscape Management, Inc, (Alviso, CA)
- Jensen Landscape Services, Inc. (San Jose, CA)
- New Image Landscape Company, Inc. (Fremont, CA)
- Paradise Landscape and Professional Tree Care, Inc. (Santa Cruz, CA)

Evaluation Process:

Minimum Qualifications: The initial review consisted of a pass/fail assessment to ensure that all minimum qualifications were met and that all proposals were complete. Of the four proposals reviewed, all were deemed responsive and passed to the evaluation phase.

Technical Evaluation (55%): A three-member evaluation team with representatives from the Department of Parks, Recreation and Neighborhood Services (PRNS) independently evaluated and scored the technical proposals for experience, capacity, and capabilities.

Cost Proposals (30%): Cost proposals were opened and scored at the conclusion of the technical proposal evaluation.

Environmental Stewardship (5%): Proposers were required to specifically address how their proposals would support the goals and objectives of the City’s Environmentally Preferable Procurement Policy.

Local and Small Business Preference (10%): Pursuant to City policy, ten percent of the total points were reserved for local and small businesses. Bayscape, Jensen and Paradise requested and were granted local preference. In addition, Paradise requested and was granted an additional five points because they are a small business with 35 or fewer employees. The preference did influence the award outcome. Had Bayscape not been awarded five points as a local business, their total score would have been 71 points and Paradise would have received the highest score with 74 total points.

The final scores from the top four proposers are demonstrated in the table below:

Evaluation Criteria	Max Points	Bayscape	Jensen	New Image	Paradise
Experience	25	20	20	10	18
Technical Capabilities	25	17	14	8	11
Environmental Stewardship	5	3	2	2	3
Cost	35	31	24	35	32
Local	5	5	5	0	5
Small	5	0	0	0	5
TOTAL	100	76	65	55	74

Protest: Pursuant to City procurement policy, the RFP process included a ten-day protest period. Paradise Landscape submitted a protest about an issue that was not an RFP specification: that Bayscape is not a “Diamond Certified” Company although they appear to claim to be on their website. Staff denied the protest on the basis that Bayscape’s proposal did not make any such representation in their proposal and that being “Diamond Certified” was not a requirement of the RFP, Paradise did not appeal Staff’s decision to deny their protest to the Council.

Award Recommendation Summary: Staff recommends award to Bayscape Landscape Management, Inc (Bayscape) because the evaluation committee deemed Bayscape’s proposal to be the most advantageous and “best value” for the City. Bayscape submitted the most detailed and comprehensive proposal that met or exceeded the RFP requirements in the following key areas:

- Demonstrated experience through an existing contractual agreement with Department of Transportation.
- A comprehensive management and staffing plan ensuring optimal maintenance levels and cost efficiencies.
- A complete training program to ensure that staff is well qualified and cross-trained.
- A transition plan that minimizes service interruptions.

Wage Requirements: Bayscape Landscape Management will be required to pay the City’s living wage rates and Department of Industrial Relations established prevailing wage rates, as applicable.

Summary of Agreement: Bayscape will provide all management personnel, supervision, labor, material, and equipment required for the work to be performed under contract for the detailed scope of services. The initial term of the agreement will be for three years with three, one-year options to renew. Compensation shall be fixed for the initial three year term and paid monthly in arrears upon City’s inspection and acceptance. After the initial three year term, prices may be adjusted a maximum of 3% per year provided that Bayscape can demonstrate to the satisfaction of the City that a price increase is justified. The agreement will include a termination for convenience clause that will allow the City to terminate the agreement at any time and for any reason with thirty days written notice.

As demonstrated in the table below, the outsourcing of this service will save the City \$290,000 per year which exceeds the savings estimated in Manager’s Budget Addendum #41 by \$30,000 per year.

Description	Cost	Contract Administration	Total	Savings
In-house Annual Cost	\$774,000			
Projected Contracted-out Annual Cost	\$486,000	\$28,000	\$514,000	\$260,000
Actual Contracted-out Annual Cost	\$456,000	\$28,000	\$484,000	\$290,000
Actual vs. projected Cost Savings				\$30,000

EVALUATION AND FOLLOW-UP

This memorandum will not require any follow-up from staff.

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)**

This item meets Criterion 3 and will be posted on the Council Agenda for December 13, 2011.

On March 23, 24, and 29, 2011, PRNS held a series of community meetings to discuss the alternate service delivery model for small parks and civic ground maintenance. Both City staff and community members were in attendance at these meetings. Some members of the community supported the recommendation as a means to maintain services at a lower cost, while other members voiced concern about outsourcing, most often in conjunction with concerns about work quality that the vendors would provide. The issue of alternative service delivery was also a discussion topic at most of the Community Budget Meetings, with similar feedback.

COORDINATION

This memorandum was coordinated with Parks, Recreation & Neighborhood Services, the Public Works Office of Equality Assurance, the City Manager's Budget Office, and the City Attorney's 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 for both the short and long term and we must continue to streamline, innovate and simplify our operations, so that we can deliver services at a higher quality level with better flexibility, at a lower cost."

COST SUMMARY/IMPLICATIONS

The following outlines the elements of the contract.

1. AMOUNT OF RECOMMENDATION/CONTRACT:

Description	Year One Cost	Three Year Max. Compensation
Maintenance of Landscaping Areas	\$348,000	\$1,044,000
Weed Control, Debris and Litter Control	42,000	126,000
Maintenance of Irrigation Systems	48,000	144,000
Playground Area and Equipment Inspection	<u>18,000</u>	<u>54,000</u>
Total	\$456,000	\$1,368,000



Memorandum

TO: HONORABLE MAYOR AND
AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: November 28, 2011

Approved

Date

11/29/11

**SUBJECT: AMENDMENT TO TITLE 23 OF THE SAN JOSE MUNICIPAL CODE
TO REVISE CHAPTERS 23.02 AND 23.04**

RECOMMENDATION

Approve an ordinance amending Title 23 of the San José Municipal Code to revise Chapters 23.02 and 23.04 to:

- (a) Create an Oakridge/Blossom Hill urban village signage area to allow special sign standards for an urban village area characterized by existing large-scale commercial development;
- (b) Establish a three-year pilot program to allow for programmable electronic signs as components of freestanding signs within the Oakridge/Blossom Hill urban village signage area and a sub-area of the Stevens Creek Boulevard signage area;
- (c) Amend the minimum height requirement for buildings as it relates to skyline signs and eliminate restrictions on skyline or roof signs adjacent to a public park;
- (d) Increase the allowed area and allowable display height for fin signs, and allow greater flexibility for their location; and
- (e) Increase the allowable signage area for freeway signs, and provide greater flexibility for the use of height exceptions to address grade differential.

OUTCOME

With approval of this ordinance, the Council would establish pilot programs for Programmable Electronic Signs (PES) within the Stevens Creek Boulevard and Oakridge/Blossom Hill Urban Village Signage Areas for a period of three years. As a result of the pilot program, the City would be able to collect data, analyze potential impacts and benefits, and elicit public input regarding PES, all to inform future Council decisions regarding permanent regulations for PES in other commercial areas of the city.

The Council would also amend regulations for skyline, roof, fin, and freeway signs that would further the purposes of the City's sign regulations by encouraging attractive signage, facilitating traffic safety, and creating an aesthetically pleasing environment.

BACKGROUND

The Council considered staff recommendations and gave direction regarding the Preferred Strategy for the Sign Code Update on January 12, February 2, March 2, March 23, and May 4, 2010. An initial ordinance implementing the first round of the Preferred Strategy was approved by the Council on June 15, 2010. The current proposed ordinance, as summarized in this report, comprises the second round of Sign Code revisions implementing the Preferred Strategy.

Pilot Program for Programmable Electronic Signs - Stevens Creek Boulevard Signage Area

On May 4, 2010, the Council considered a detailed alternatives analysis and recommendations for the proposed Stevens Creek Boulevard Programmable Electronic Sign Pilot Program and directed staff to prepare an ordinance establishing such a pilot program subject to the following:

- Establish the Stevens Creek Boulevard Programmable Electronic Sign Pilot Program for a period of three years within a sub-area of the Stevens Creek Boulevard Signage Area consisting of those parcels fronting on the south side of Stevens Creek Boulevard between Henry Avenue and the westerly boundary of the property located at the southwest corner of Stevens Creeks Boulevard and Richfield Avenue;
- Within the pilot program area, allow PES as a component of otherwise allowed freestanding signs for commercial parcels with 300 linear feet or more of frontage on Stevens Creek Boulevard or parcels with frontage on Stevens Creek Boulevard of less than 300, but with a parcel area of five acres or more;
- Exclude parcels with Kiely Boulevard or Saratoga Avenue frontages;
- Limit PES to 60% of the total sign area of a freestanding sign;
- Allow on-site or non-commercial messages only; and
- Establish operational requirements for Programmable Electronic Signs to address traffic safety and land use compatibility.

Pilot Program for Programmable Electronic Signs – Oakridge/Blossom Hill Road Urban Village Signage Area

On March 23, 2010, staff recommended to the Council that if it establishes a pilot program for programmable electronic signs for the Stevens Creek Boulevard Signage Subarea, and it wishes to do so on the Blossom Hill Corridor, the same provisions should be applied to both because the Blossom Hill Road area also includes a concentration of large lots with wide frontages and similar retail uses. On August 3, 2011, the Rules Committee directed the Administration to add

the Blossom Hill Corridor to the pilot program and to bring the ordinance to the Council for its consideration in Fall 2011.

Skyline and Roof Signs

The Council directed the following:

- Revise the Sign Ordinance to allow buildings 80 feet or more in height to display skyline or roof signs citywide.
- Eliminate restrictions on skyline and roof signs visible from a public park.

Fin signs

The Council directed the following:

- Increase the allowed area of fin signs from 10 to 20 feet and maximum display height for the bottom of the sign from 12 to 20 feet.
- Eliminate requirement that fin signs be located near an entrance.

Freeway signs

The Council directed the following:

- Allow freeway signs up to 500 square feet.
- Modify the freeway sign height exceptions (provided to address grade differential) to:
 - Allow height up to 100 feet
 - Add a restriction of 80 feet. in height for signs within 400 feet of residential
 - Expand the area in which the height exception may be applied to within 500 feet of freeway.

ANALYSIS

The following analysis addresses each of the proposed amendments to the Sign Code by topic.

Oakridge/Blossom Hill Urban Village Signage Area

The proposed ordinance would establish the Oakridge/Blossom Hill Urban Village Signage Area located between Blossom River Drive and Thornwood Drive/Brian Ridge Drive. This area can be distinguished as a planned Urban Village area in the General Plan that is currently developed as a major commercial street with similar retail uses that generate significant amounts of commercial activity. The specific boundaries of the proposed Oakridge/Blossom Hill Urban Village Signage Area would encompass those real property parcels adjacent to and fronting along Blossom Hill Road and immediately adjacent parcels that are part of a contiguous shopping center functioning as a single unit fronting on Blossom Hill Road within the Urban Village Boundary Area as indicated on the General Plan Land Use/Transportation Diagram between Blossom River Drive and Thornwood Drive/Briar Ridge Drive.

The primary purpose for creating this special signage area is to include it in the proposed pilot program for PES. As one of the largest planned Urban Villages, it is anticipated that a greater visual intensity, including potential PES as discussed below, would be consistent with and contribute to implementation of the General Plan Urban Village concept and also be consistent

with the existing, intensive commercial environment. Through this program, there is an opportunity to explore how the PES could align with the commercial focus of this area, while simultaneously giving it its own visual identity and contributing to the development of a sense of place.

Pilot Program for Programmable Electronic Signs for the Stevens Creek Boulevard Subarea and Oakridge/Blossom Hill Urban Village Signage Areas

The proposed Stevens Creek and Oakridge Digital Signage Pilot Program Areas involves major commercial streets with a concentration of large lots and similar retail uses where greater visual intensity of programmable display signs would appear to be appropriate to the scale of the large streets and the concentration of large lots with a uniformity of retail sites. The proposed ordinance establishes a pilot program to be effective 30 days after the adoption of the ordinance and to continue for a period of approximately three years (until March 16, 2015). The pilot would allow a PES to be incorporated into a freestanding sign that is oriented toward Blossom Hill Road, Santa Teresa Boulevard, or Stevens Creek Boulevard, and meets all of the proposed parameters.

For the Stevens Creek Boulevard Signage Area, the pilot would apply to a subarea defined as the properties fronting on Stevens Creek Boulevard between Henry Avenue and Richfield Drive (excluding parcels with Kiely Boulevard or Saratoga Avenue frontages). The pilot would allow PES only for properties with at least 300 feet of street frontage or which are at least five acres in size for the Stevens Creek Subarea.

For the Oakridge/Blossom Hill area, PES would be allowed for:

- A parcel fronting onto Blossom Hill Road that has a minimum of 300 linear feet of street frontage along Blossom Hill Road, or
- A parcel fronting onto Blossom Hill Road that is at least five acres in size, or
- One or more parcels that are part of a contiguous shopping center functioning as a single unit fronting on Blossom Hill Road with a minimum of 300 linear feet of street frontage along Blossom Hill Road, or
- For the large centers that have a minimum of 300 linear feet of street frontage along Blossom Hill Road and Santa Teresa Boulevard and are a minimum of five acres in size, they may have one freestanding programmable electronic sign on Blossom Hill Road and one freestanding PES on Santa Teresa Boulevard, provided that they meet all of the other requirements.

Table 1 provides a summary of the existing regulations applicable to freestanding signs and the proposed regulations applicable to PES during the pilot program. Currently, within the existing Stevens Creek Signage Area, the size and height of a freestanding sign is determined based on the length of the street frontage of the parcel, subject to a maximum area of 150 square feet and a maximum height of 40 feet. The pilot would allow for a freestanding sign with a programmable electric sign component of not more than 60% of the total sign area of the freestanding sign up to 90 square feet and a maximum height of 40 feet.

Operation of the PES is subject to the requirements of Section 23.02.905 of the adopted Sign Ordinance. This section, intended to minimize driver distraction and promote land use compatibility, allows the sign message of a PES to change no more frequently than once every four seconds, prohibits animation and other effects that give the appearance of movement, and requires automatic dimming technology that ties the sign illumination to ambient light. In addition, the PES could display on-site or non-commercial messages only.

Table 1. Summary of Regulations for the Stevens Creek and Blossom Hill Pilot Program

Sign Type	Qualifying Parcels	Calculation of Sign Area	Maximum Sign Area (sq. ft.)	Height (ft.)	Operation of PES
Freestanding Sign ¹	Minimum 100 linear ft. of street frontage	3.35 sq. ft. per 5 linear ft. of street frontage	150 sq. ft.	Sign area divided by 3.75 or 40 ft. ³	N/A
Freestanding Sign with Programmable Electronic Sign Component	Minimum 300 linear ft. of street frontage or 5 acres ²	60% of total sign area of freestanding sign	90 sq. ft. (programmable electric sign area)	Sign area divided by 3.75 or 40 ft. ³	Section 23.02.905 of Title 23 ⁴

Other parameters are intended to minimize potential cumulative effects of multiple programmable electric signs along a single street. These include allowing PES at a distance of:

- 100 feet from signalized intersections,
- 100 feet from another programmable electronic sign, and
- 200 feet from residentially zoned parcels.

The proposed pilot program would be in place for three years. During this time, property/business owners would be able to apply for PES and if they meet the parameters, they would be allowed to install the signs. The three year period allows for PES that are appropriate to the large commercial parcels along very wide streets and provides a mechanism for the City to collect traffic, other safety, and land use compatibility information, and assess the affect of PES on a limited basis before the Council considers whether to allow them permanently on a wider basis. If issues with these signs are identified during the pilot program period, the Council will be able to address those issues at the time the Council determines the scope of how these signs should be treated in the long-run with permanent regulations.

Skyline and Roof Signs

¹ Regulations for freestanding signs are existing. No change is proposed.

² Parcel(s) must have frontage on Stevens Creek Boulevard and Blossom Hill Road.

³ Whichever is more restrictive.

⁴ The operational regulations for Programmable Electronic Signs were adopted by the City Council on June 22, 2010.

Expansion of Skyline and Roof Signs. Currently, skyline signs and roof signs are allowed on non-residential buildings citywide, with specific parameters for such signs in the Downtown Sign Zone, in specific areas of North San José, including Rincon South, and in the Edenvale Redevelopment Area subject to regulations that vary somewhat by area. These standards reflect the general structure of the requirements for the Downtown Sign Zone, but provide for somewhat smaller signs and allow them on shorter buildings in the identified, non-Downtown locations. As in the Downtown Sign Zone, skyline and roof signs are not allowed on the same building and such signs do not reduce otherwise allowed sign area. The proposed ordinance establishes a consistent set of standards for skyline and roof signs across all areas in San José, allowing their placement on buildings of 80 feet or more in height. Skyline signs only would be allowed for buildings up to 80 feet in height. See Table 2 below for details.

Table 2. Proposed Regulations for Skyline & Roof Signs in Commercial/Industrial Districts

Building Height	Type of Allowed Sign	Number of Allowed Signs	Maximum Area of Single Sign (sq. ft.)	Maximum Area of all Skyline Signs (sq. ft.)
80 feet or more	Roof or Skyline	2	250	500
0 to 80 feet	Skyline	2	1/2 ground floor sign allowance up to 250	500

These revisions result in streamlined regulations that are consistent for the areas of the City that allow Skyline and Roof Signs and allow signage that is appropriate to the taller buildings that are now being implemented throughout San José.

Skyline Signs Proximate to a Park. The proposed ordinance would eliminate the restriction currently disallowing illuminated skyline or roof signs within 1,000 feet of a public park. As the City continues to urbanize, ambient light levels, including those typically generated by buildings that could support a skyline or roof sign, are such that light emitted or reflected by such a sign will not have a significant effect upon a public park area. Current regulations disallowing illuminated skyline or roof signs within 1,000 feet of a river or creek that directly face that river or creek would remain.

Fin Signs

A fin sign is a two-sided sign that projects from the side of a building and is intended to be viewed from the side, such as the Flames restaurant sign at San Fernando and Fourth Streets. The proposed ordinance would modify the provisions for fin signs by:

- Increasing the maximum area from 10 to 20 feet;
- Increasing the maximum display height for the bottom of a fin sign from 12 to 20 feet;
- Increasing the allowed projection from 3 to 4 feet; and
- Eliminating the requirement that fin signs be located near a building entrance.

These proposed revisions allow greater flexibility for the use of fin signs at a size and height that makes them very effective in communicating with both pedestrians and auto travelers in areas where buildings are set close to the street.

Freeway Signs

The proposed ordinance would increase the allowable size for freeway signs located on commercial shopping centers from 400 to 500 square feet adjacent to freeways.

The proposed ordinance would also provide more flexibility for height exceptions that address grade differentials between the sign location and the adjacent freeway. In other words, some freeways are elevated above the ground creating a grade difference between the grade of the sign location and the adjacent freeway. In these situations, the proposed ordinance would modify the height exception to address grade differential by:

- Increasing the allowed height from 80 feet to 100 feet,
- Maintaining the allowed height of 80 feet for freeway signs within 400 feet of residential uses, and
- Expanding the distance for which the exception may be applied from 400 feet to 500 feet of a freeway.

Based upon further analysis of specific commercial shopping centers which would qualify for freeway signs, all of these additional allowances are necessary to facilitate the implementation of the Sign Code consistent with the intent of allowing for distinctive signage at these unique locations and consistent with their treatment at other locations within the region.

EVALUATION AND FOLLOW-UP

Based on Council direction regarding the current ordinance, staff will return to the Council within three years with an evaluation of the pilot program and recommendations for permanent regulations for PES. Staff will also return to the Council during the next calendar year with a third round of Sign Code changes in order to complete implementation of the Preferred Strategy for the Sign Code update identified by the Council.

POLICY ALTERNATIVE

The Council considered a comprehensive analysis of the alternatives during their discussions of the Sign Code in 2010. The proposed ordinance incorporates the alternative selected by the Council for inclusion in the Preferred Strategy.

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater.
- Criteria 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)**
- Criteria 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.

Public outreach for this proposal conforms to the Public Outreach Policy. A notice of the public hearing for this ordinance was emailed to a list of community groups, other organizations, business interests, sign industry representatives and interested individuals, and was posted on the City's website.

Prior public outreach for the Sign Code Update conducted over a five-month period included a total of eight community meetings; 15 focus group/stakeholder meetings; meetings with five Strong Neighborhood Initiative Groups, with representatives of the outdoor advertising industry and with the Chamber of Commerce; and an Internet Visual Preference Survey of San José residents. In addition, staff has discussed specific issues regarding the proposed ordinance with numerous individuals and development representatives to obtain input regarding specific regulations. This staff report and attachments are available for review on the City's website.

COORDINATION

The proposed ordinance was coordinated with the City Attorney's Office, the Redevelopment Agency, the Office of Economic Development, and the Department of Transportation. The preparation of this memorandum was coordinated with the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

The proposed ordinance is consistent with applicable General Plan Urban Design policies that promote vibrant urban development.

HONORABLE MAYOR AND CITY COUNCIL

November 28, 2011

Subject: Sign Ordinance

Page 9

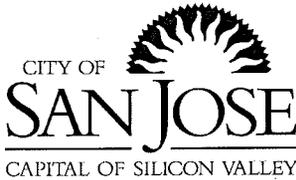
CEQA

Negative Declaration, File No. PP10-111 and PP11-099.

/s/

JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions, please contact Andrew Crabtree, Division Manager, at 408-535-7893.



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Julie Edmonds-Mares

**SUBJECT: DEFERMENT OF PARKLAND
FEES**

DATE: 11-21-11

Approved

Date

11/29/11

COUNCIL DISTRICT: Citywide, 6

RECOMMENDATION

Adopt a resolution amending the Schedule of Parkland In-Lieu Fees and Credits (Resolution No. 73587, as amended) charged pursuant to the Park Impact and Parkland Dedication Ordinances (Chapters 14.25 and 19.38 of the San José Municipal Code) to provide an additional deferment of payment of parkland fees, interest and penalty until January 15, 2013, or the date of issuance of the first building permit for residential construction, whichever occurs earlier, for projects that currently have an approved parcel or final map by the City and have not been issued a building permit by the City for residential construction.

OUTCOME

City Council approval of the recommended action will allow developers with approved parcel or final maps who are not in a position to begin construction of the residential development to defer payment of parkland fees to January 15, 2013, or the date of the issuance of the first building permit for residential construction, whichever comes first.

BACKGROUND

The City Council adopted Resolution No. 75219 on December 8, 2009 amending the Schedule of Parkland In-Lieu Fees and Credits (Resolution No. 73587, as amended) charged pursuant to the Park Impact and Parkland Dedication Ordinances (Chapters 14.25 and 19.38 of the San José Municipal Code) to retroactively defer payment of parkland fees, interest and penalty until January 15, 2011, or the date of issuance of the first building permit for residential construction, whichever occurs earlier, for projects that currently have an approved parcel or final map by the City and have not been issued a building permit by the City for residential construction. Preceding the extension expiration date, staff worked with developers toward meeting their parkland fee commitments. However, the economic environment continued to impact development of residential projects. As a result, the City Council adopted Resolution No. 75692 on January 11, 2011 amending the Schedule of Parkland In-Lieu Fees and Credits (Resolution 73587, as amended) to retroactively defer

payment of parkland fees, interest and penalty until January 15, 2012, or the date of issuance of the first building permit for residential construction, whichever occurs earlier. Since adoption of Resolution No. 75692, the economic environment has changed little resulting in similar impacts to the development of residential projects. Deferring the timing of parkland fees to further assist the residential development projects delayed for economic reasons may be warranted.

ANALYSIS

Pursuant to San Jose Municipal Code 19.38.335, parkland fees may be paid to the City before the City's approval of the final or parcel map for the subdivided residential project. Alternatively, a subdivision developer may enter into a parkland agreement with City, which provides for payment of the parkland fee in full, concurrent with the issuance of the first building permit, but no later than one year after the final or parcel map is approved by City.

City staff recommends that parkland fees be deferred until January 15, 2013 or prior to issuance of the first building permit, whichever occurs first, for developers that meet all of the following conditions:

1. City has approved a parcel or final map for the residential project; and
2. City and developer has entered into a parkland agreement for the payment of parkland fees; and
3. City has not issued the first building permit for residential construction for the project; and
4. City and developer enter into a fully executed amended parkland agreement by no later than March 1, 2012.

Based on the previous research conducted by staff, there are four residential projects that have an approved parcel or final map, entered into a parkland agreement with the City to defer payment of parkland in-lieu fees until the issuance of a building permit, or are within one year of the approval of the parcel or final map, and have not pulled building permits. Based upon Resolution No 75692, a developer was required to enter into a fully executed amended parkland agreement no later than March 12, 2011 to be eligible for a payment extension of the required parkland fees to the City on or before January 15, 2012. Only one developer (Morrison Park Apartments) entered into a fully executed amended parkland agreement.

As a result, the only project staff has identified that would currently benefit from the additional deferment and meets the each of the conditions is the Morrison Park Apartments project. Three additional developers of residential projects that were previously identified as meeting the criteria did not seek an extension of their parkland agreement and are ineligible for an extension. Staff continues to pursue payment of fees with the three other developers.

The details of the Morrison Park Apartments fee payment are shown below. Representatives of Morrison Park Apartments have been in contact with the City and anticipate beginning construction within the next year and the payment of parkland fees prior to that time. However, the developer will not be able to fulfill payment of parkland fees until after January 15, 2012.

Project	Developer or Representative	Amount Due	*Payment Deadline	Late Fee (Not including interest)
**Morrison Park Apartments Cinnabar Street and Stockton Avenue	Morrison Park Apts. LLC	\$4,214,092	12-08-2009	\$2,020 per month

* Payment deadline shown is one year after approval of the final tract map.

** This project must also provide private recreation facilities or land dedication in addition to payment of in-lieu fees according to the terms of the parkland agreement.

EVALUATION AND FOLLOW UP

If the resolution is passed, City staff will work with applicants to amend existing parkland agreements that meet approved criteria to extend the term of each agreement to January 15, 2013.

POLICY ALTERNATIVES

Alternative #1: Do Nothing

Pros: The City will collect late fees for untimely payment at the time of building permit issuance.

Cons: Development applicants will be required to pay late fees which will further impact their ability to finance and construct delayed projects.

Reason for not recommending: It would not support Council’s goals regarding economic stimulus.

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 Criterion 1. The topic was discussed at the October 28, 2009 Rules and Open Government Committee. This topic was discussed at the November 4, 2009 Parks and Recreation Commission Hearing and the Commission unanimously supported an extension to

developers. The topic was discussed at the January 11, 2011 City Council meeting. This memo will be posted on the City's website prior to the City Council meeting on December 13, 2011.

COORDINATION

This memorandum has been coordinated with the Department of Planning Building and Code Enforcement, City Attorney's Office, the City Manager's Budget Office, and the Public Works Department.

FISCAL/POLICY ALIGNMENT

This Project is consistent with the Council-approved Budget Strategy Economic Recovery section in that it will spur construction spending in our local economy.

COST SUMMARY/IMPLICATIONS

Since the City has not received this funding it has not been included or projected in the Five Year Capital Improvement Program so there are no direct cost implications associated with this proposal. However, by deferring the collections of these fees, the allocations of these fees to new projects will be delayed in the future.

BUDGET REFERENCE

Not Applicable.

CEQA

Not a Project, File No. PP10-067(a), adjustments to fees, rates, and fares.

/s/

JULIE EDMONDS-MARES
Acting Director of Parks, Recreation and
Neighborhood Services

For questions please contact Matt Cano, Deputy Director, at 408-535-3580.