



THE CITY OF SAN DIEGO

DATE: June 4, 2012

TO: Stacey LoMedico, Director, Park and Recreation Department

FROM: Eduardo Luna, City Auditor

SUBJECT: **Hotline Investigation Report of Lack of Special Use Permit Oversight**

The Office of the City Auditor received a Fraud Hotline complaint alleging that the Park and Recreation Department has been issuing Special Use Permits (SUP) to Sunshine Pony/Colt League (SPL) for youth baseball but not providing the proper oversight, which has allowed a SPL official the opportunity to illegally rent the field to non-youth baseball organizations and personally profit from the SUP.

The investigation determined that SPL has been given a SUP for the field located at 4402 Federal Boulevard. The SUP authorizes SPL to collect a reasonable maintenance fee from other City-approved groups in accordance with a City-approved fee schedule. The SUP also requires that all maintenance fees collected by SPL must be used for the operation, maintenance, and improvement of the field. We, therefore, determined that the allegation that the SPL official is illegally renting out the field is unsubstantiated. We also found that SPL officials are not personally profiting from sublease activities.

The investigation did, however, identify significant weaknesses in the oversight by Park and Recreation over compliance with the SUP. We found that Park and Recreation has not reviewed the operations of organizations granted SUPs in a timely manner; has not provided oversight on the sublease fees charged and collected by SPL; and has not ensured that sublease fees were totally used for field maintenance as required by the SUP.

There are three baseball fields on the property located at 4402 Federal Boulevard. SUPs for two of the fields have been issued to the Sunshine Little League (SLL) and to SPL for the third field. The most current SUP found in the Park and Recreation files was for the term January 1, 2008 through December 31, 2008 for SPL and January 1, 2004 through December 31, 2004 for SLL. The SUP's intent is to be reviewed and renewed annually.



- The most current version of each SUP states that the “*Permittee shall not sublet the Premises... without prior approval of the City in each instance...and...the Permittee may collect a reasonable maintenance fee from other City-approved groups, in accordance with the City-approved fee schedule...*” (§10). SPL officials indicated that the sublease fees have been the same for several years and are not calculated using the City-approved fee schedule. Although Park and Recreation had knowledge of the organizations that had agreements with SPL, they did not provide any documentation showing that the groups that SPL had agreements with were pre-approved. Moreover, Park and Recreation did not have any verification that the sublettors had the required insurance coverage. Park and Recreation management stated that, although there is no specific written approval for the groups subletting Sunshine Fields, the standard fee schedule does name private schools, adult sports leagues, and off-leash dog groups as groups that typically seek field permits.
- A review of the SPL financial statements verified deposit of funds received from the groups that sublease from SPL the field covered by their SUP with the City. It appears that the sublease revenue exceeded the expenditures made from these funds for the operation, maintenance, and improvement of the premises. In calendar year 2010, \$3,490 in sublease revenue was deposited, and pure maintenance expenditures of \$1,458 were made. In calendar year 2011, \$3,490 in sublease revenue was deposited, and pure maintenance expenditures of \$2,603 were made. It does also appear that the excess sublease revenue remains on deposit in the league’s bank account or was combined with player registration and other sponsor money to fund administrative expenses of running the league. The analysis of the bank records does not indicate that any of the officers of SPL personally profited from Pony/Colt League revenue.

Based on the observations made during the investigation of the complaint, we make the following recommendations to the Park and Recreation Department regarding their oversight of the SUPs issued for Sunshine Berardini Field.

1. The Park and Recreation Department should expedite the review and approval of the revised SUPs for Sunshine Berardini Fields.
2. The Park and Recreation Department should require any sublease authorized by the revised SUP to be documented on a Park and Recreation Application and Permit for Use of City Athletic Area in order to comply with the City-approved fee schedule. The permit form should also be signed by a Park and Recreation official.
3. The Park and Recreation Department should require the Permittee to provide a facilities plan to make improvements to the site including structures, fencing, rest rooms, etc. during the term of the SUP to ensure that all sublease revenue is applied to operation, maintenance, and improvement of the premises.

Park and Recreation Department Response

The Park and Recreation Department staff agrees with the report and the recommendations regarding the oversight to SUP(s), if issued for the park.

As background, in 2009 the Park and Recreation Department agreed to take over the responsibility and oversight of the ball field non-exclusive preferential use permits from the Real Estate Assets Department. As such the referenced permits of 2008 and 2004 were issued by READ and transferred to the Department to create new templates and issue new permits.

In late 2010 the Department finalized a new SUP template with input from various Departments, including Risk Management and the City Attorney's Office. However, the Department Instruction (DI) regarding the staff's responsibility for the oversight and management of the permits was not completed and approved via the "meet and confer" process with the labor union until late 2011.

We agree that oversight is necessary and it is our intent to ensure that oversight is provided to any SUP the Department may issue.

We appreciate the assistance we received from the Park and Recreation Department during our investigation. Thank you for taking action on this issue. Please contact me if you have any questions.

Respectfully submitted,



Eduardo Luna
City Auditor

cc: Honorable Mayor Jerry Sanders
Honorable City Council Members
Honorable Audit Committee Members
Jay M. Goldstone, Chief Operating Officer
Wally Hill, Assistant Chief Operating Officer
Jan Goldsmith, City Attorney
Andrea Tevlin, Independent Budget Analyst
Hadi Dehghani, Personnel Director
Scott Chadwick, Human Resources Director