




**THE CITY OF SAN DIEGO**

**M E M O R A N D U M**

DATE: November 14, 2017

TO: Honorable Council President Myrtle Cole and Members of the City Council

FROM: Herman D. Parker, Director, Parks and Recreation Department  
via David Graham, Deputy Chief Operating Officer, Neighborhood Services 

SUBJECT: Amendment to Parks and Recreation Department Fee Schedule

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On October 31, 2017, the City Council held a hearing regarding an amendment to the Park and Recreation Department Fee Schedule and Appropriate Recreation Council Revenues and Fees. The City Council referred this item to the Public Safety and Livable Neighborhoods Committee scheduled for December 6, 2017. This memo will provide additional information, correct statements made at the public hearing and give an update to the City Council on steps the Department is taking in anticipation of the upcoming committee meeting.

The history leading up the City Council hearing on October 31, 2017 was not clearly articulated in the response to questions. The City Attorney's Office, as our legal advisor, was not responsible for any of the timing associated with scheduling the item for City Council hearing nor the decision to direct docket.

This is the recent history of the relationship between recreation councils and the City. The Special Use Permits (SUP) and Standard Operating Procedures and Responsibilities for Recreation Councils (SOP) with recreation councils have most recently been revised in 2007, 2011 and 2015 to address cash handling issues, strengthen internal controls, ensure consistency with the Prevailing Wage ordinance, and various other issues.

In 2016, while processing a right of entry permit for a recreation council, the Department was advised that the permit could not be issued because the intended approach to construct the playground did not comply with the Department of Public Works contracting and related requirements for projects funded with City funds. Since the notion that "recreation council funds are City funds" was inconsistent with operations at that time, the Department asked the City Attorney's Office whether the funds collected by recreation councils are "City funds" subject to applicable provisions in the San Diego Charter and San Diego Municipal Code. On September 8, 2017, the City Attorney issued MS-2017-20 a public memo that states "All funds collected by recreation councils are City funds, and therefore subject to Charter and Municipal Code requirements governing the use of City funds."

In anticipation of a public memorandum, the Department evaluated the ramifications to the current relationship with recreation councils between 2016 and 2017, considering that recreation council funds are City funds. We requested a delay of the issuance of MS-2017-20 until we could complete the development of options for recreation council and City Council consideration to reduce the disruption in our relationship with recreation councils.

The Department reviewed other parks and recreation departments from around the country to determine best management practices for partnering with nonprofit community groups in the delivery of programming and services. The current arrangement between the City and recreation councils is not replicated by any other city of comparison nor considered a best practice in the United States. The fact that recreation council funds are City funds and that the current practice of depositing City funds into private bank accounts conflicts with state and local law poses a significant potential for disruption to the existing relationship with recreation councils. The Department has engaged extensively with the City Council and the affected community including:

- Week of September 11, 2017: One-on-one phone calls with recreation council presidents
- Week of September 18, 2017: Small group meetings with recreation council board members
- September 21, 2017: Public presentation at the Park and Recreation Board
- October 19, 2017: Public presentation at the Park and Recreation Board
- October 25 and 26, 2017: Community Parks I and Community Parks II Area Committee meetings

On October 31, 2017, the Department proposed recommendations to the City Council intended to resolve conflicts with the City Charter. Those recommendations would authorize the Director of the Park and Recreation Department to establish programming fees for individual recreation programs, authorize the Chief Financial Officer to appropriate and expend recreation center area funds, restrict those funds to only be expended in the geographic area where they were collected, and grant the ability for the assumption of agreements with independent contractors. These are the near-term actions necessary to reduce the disruption of the relationship with the recreation councils. Recreation councils would continue in all other roles except they would not be the fiscal agent of the City. All other responsibilities in Council Policy 700-42 (CP 700-42), and the SOP would remain as the recreation councils would shift to an advisory body rather than an administrative group.

The current activities of the recreation councils are governed by CP 700-42, the SUP and SOP. Although the SUP will expire on December 31, 2017, CP 700-42 remains in effect which includes the following indemnification provision:

*City, in consideration of the volunteer services rendered by recreation councils; does hereby agree to provide legal defense to and indemnify such members from liability for acts of such members performed while engaged in assisting the Park and Recreation Department community recreation programs when such acts are done under the direction, control or supervision of Park and Recreation personnel. The City shall further provide a legal defense to, and indemnify such members from liability for acts of such members performed in connection with recreation councils acting as a body within the policy guidelines of the City of San Diego.*

*The City shall not, however, defend or indemnify any member of recreation councils for any act or acts with regard to damages or liability resulting from same, alleged to have occurred as a result of any criminal act of any such members.*

Recreation council members will continue to be indemnified under CP 700-42 even after the expiration of the SUP.

The Department remains committed to recreation councils and is taking the following actions to ensure they remain a vital part of our work. The Department has set up geographically restricted special funds that will accept deposits of city funds that were previously deposited in recreation council private bank accounts. These funds will be expended based on a budget annually approved by each recreation council. The City will not write checks or provide funds to recreation councils, but rather directly contract and procure special recreation services/programs and recreation supplies to execute the programs and events which were approved by the recreation councils in the annual budget process. The Department will be reaching out to independent contractors that are currently providing contract service classes to determine how that programming can continue after the expiration of the SUP. The Department is reviewing and will revise any policies authorized under CP 700-42 to ensure that recreation councils can continue to work cooperatively in the planning, promoting and development of community recreation programs.

While CP 700-42 remains in effect, an update will be necessary. The Department has collected input from extensive outreach efforts and is beginning the process of creating a community working group to make recommendations on revising the policies and procedures for recreation councils. The working group will be comprised of members recommended from City Council, the Park and Recreation Board, and the community. The Department is soliciting information from interested individuals with the expectation that the group will be empaneled in December with the first meeting occurring in January.

As the City Council deliberates on the proposed Amendment to Park and Recreation Department Fee Schedule and related items, the recreation councils will continue to serve as the recognized conduit and sponsor for community input regarding park and recreation programs and facilities and park development projects. Per CP 700-42, the City will work cooperatively with recreation councils in the planning, promoting and development of community recreation programs. The adopted bylaws that are in accordance with the terms of the SOP will remain in effect. The activities of the recreation council 501(c) 3 organizations will operate like any other non-profit, separate from the City, unless otherwise engaged through a contractual agreement.

Before the Public Safety and Livable Neighborhoods Committee scheduled for December 6, 2017, the Department intends to provide additional public presentations regarding proposed changes to recreation councils. These meetings include the Park and Recreation Board meeting of November 16, 2017, and a special joint Area Committee meeting on November 29, 2017.

The Department respects the decades of work that has been performed by recreation councils. San Diego is unmatched in its integration of community input in the operations of

the City. Recreation councils are vital to the success of our City and will remain a crucial voice in the delivery of recreation in our City.



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