

AGENDA
REGULAR MEETING
BOARD OF DIRECTORS

EAST BAY REGIONAL PARK DISTRICT

Tuesday, May 19, 2009

C. BUSINESS BEFORE THE BOARD

6. BOARD COMMITTEE REPORTS

a. Executive (3/26/09) _____ (Radke)

Attendees:

Committee Members: Directors Ted Radke (Chair), Ayn Wieskamp, Doug Siden

Staff Members: Pat O'Brien, Dave Collins, Ted Radosevich, John Escobar, Anne Scheer

Guests: Rich Guarienti, PAC Chair

I. Agreement for use of East Bay Regional Park District swimming pools, lagoons, shoreline parks, and lakes by the Oakland Unified School District

Ted Radosevich, District Counsel, reported that since the 1930's students from the Oakland Unified School District have been using District swimming facilities with success. However, in light of recent litigation arising from an accidental drowning of a student during a school picnic at Roberts Park, District staff suggested an agreement between the Oakland School District and the Park District be drafted.

Under the current Education Code, when taking students on field trips, schools are immune from any litigation arising from negligence on their part. This point was exemplified in the recent drowning lawsuit at Roberts Park. In addition, only the School Board can enter into contracts that are binding – a school principal can sign a contract, but should any consequences arise during a field trip, the School District could claim not responsibility because the contract is not legally binding. The immunity that the School would have would not extend to the Park District.

The proposed agreement represents an effort to minimize the risks to the Park District from such swim trips and avoid future lawsuits with the School District. Under the terms of the agreement, the School District would agree that it shall obtain an executed waiver for every participant who attends a school trip. If the School District fails to obtain a waiver from the participant, the Park District retains the right to seek contribution from the School District for any claims arising from that trip. Park District and School District legal staff are currently drafting an agreement consistent with these principles. They are also working on education with the school groups on

correct safety protocol. Staff is bringing this item for conceptual approval by the Board Executive Committee in March so timelines can be met to authorize the agreement in April 2009 in advance of the 2009 swim season.

Director Radke noted that this type of agreement could be considered a model for agreements with other school districts as well.

RECOMMENDATION

Recommended by Director Radke, seconded by Director Weiskamp, the Board Executive Committee unanimously voted to support approval of the agreement by the full Board of Directors.

2. FPPC Regulations 18944.1 and 18944.2 Pertaining to Gifts to an Official

Ted Radosevich, District Counsel, explained that the Fair Political Practices Commission (FPPC) recently adopted two new regulations regarding gifts to a public official. These new regulations set forth circumstances under which a gift or payment that would otherwise constitute a gift to a public official constitutes a gift to the Park District instead. The Park District is obligated to adopt its own regulations and policy to comply with the new regulations.

The first regulation pertains to tickets or passes to events provided to an official. According to the new regulation, an official's use of the ticket or pass will **not** be considered a "gift" to the official and will not be reportable under certain circumstances, which Counsel reviewed with the group.

The regulation also requires that the Park District adopt a written policy governing the distribution of tickets or passes; the policy be posted on the Park District's website; and the distribution of the tickets or passes be documented on FPPC form 802, a copy of which shall be posted on the Park District's website within 30 days after the distribution.

Director Radke asked for and received clarification about reporting tickets to fundraisers.

Director Siden asked about *Day in the Park*, and Counsel answered that since it is for a non-profit, partnership event it has historically been exempt from reporting.

Director Wieskamp asked about the value of a seat at some upcoming lunches that she was attending. Counsel summarized that "free" tickets may end up being more costly in the long run (with reporting and declarations, etc.) than the actual purchase price of a ticket, and recommended that when in doubt, tickets should be purchased.

The second regulation governs the distribution of payments made to a public agency, and the circumstances under which payment made to an official is not considered a reportable or limited gift to an official, although the official receives a personal benefit from the payment. An example could be parking passes for an event, or if the District was holding an event at an outside facility that was "gifted" to the District via a fee waiver, that would have to be declared as a gift.

Similar to the first regulation, the Park District is required to report the payment within 30 days after its use. The report must also be posted on the Park District's website.

There are a variety of nuances with the regulations. These regulations and their scope as enacted by the FPPC are still unclear at best. However, it is important that the Park District take these preliminary actions, which may be subject to revision and updates over time.

RECOMMENDATION

Recommended by Director Radke and seconded by Director Wieskamp, the Board Executive Committee approved the draft policies to be forwarded to the Board of Directors for review and approval with more refined, specific discussion at that time.

3. Sustainability Policy

Anne Scheer, Chief of Maintenance and Skilled Trades, reviewed the Sustainability Policy and gave some background on the Sustainability Committee. By the direction of General Manager Pat O'Brien, the Sustainability Committee was formed to look into "greening" the District, as well as to take credit for the practices that staff were already doing that were "green." She reviewed the members of the committee, which is a diverse mix of staff from many different departments in the District. The Committee had their first meeting about a year ago, after a survey of current "greening" efforts was taken.

Ms. Scheer reviewed the results of the survey, which indicated that 90-100% of District staff was already participating in regular recycling of items such as paper, glass, office supplies, etc.

She also updated the group on recent greening efforts, which included the placement of 211 can/bottle recycling containers in 39 parks, purchased using grants, the General Fund, and Board Contingency funds. The emptying of the containers ranges from a contract with Civicorps to leaving the bins unlocked and letting the general public collect, to jobs created for special need adults through the Castro Valley School District. She credited Sanitation Supervisor Dennis Waespi with this accomplishment.

Ms. Scheer also mentioned a program from PG & E called "Smart Lights," which involves audits of current lighting systems and its subsidy of half the cost of retrofits for more energy-efficient (Energy Star) lighting. There are currently four contracts in place. Ms. Scheer attended a meeting with PG and E that was suggested by Community Relations Manager Carol Johnson, and PG and E has decided to fund the entire cost for the four projects as opposed to the usual half. It also appears that PG and E will fund the removal of 662 light bulbs around the Merry Go Round at Tilden and replace those bulbs with energy-efficient lights – a value of about \$10,000.

Ms. Scheer reviewed other greening projects as well, including the Brazil Room and Temescal lighting projects.

GM O'Brien stated how proud he was of District staff's efforts and Ms. Scheer's leadership in the area.

Director Wieskamp commended Ms. Scheer on her efforts and Director Radke added that hopefully many of these green efforts will become part of everyday culture. He also shared a story regarding the greening of the House of Representatives.

Ms. Scheer then reviewed the draft Sustainability Policy with the group. She noted the need for flexibility in the policy due to constantly changing technology in greening.

PAC Chair Rich Guarienti was in attendance and shared that the PAC had been given a presentation as an information item by Ms. Scheer at their last meeting. Members of the PAC had many comments about implementation for the policy and shared their experiences. Overall, the PAC approved of the policy.

Ms. Scheer stated that she would like to take the policy to the Board for approval at the next meeting, which happens to be Earth Day.

Director Wieskamp asked about the possibility of working with schools on planting vegetable gardens. Ms. Scheer noted that the Tilden Nature Area currently has one, and Director Wieskamp suggested that staff look into even more partnerships with schools, particularly in areas like Richmond.

Director Siden also commended staff for their efforts. He also brought up and got feedback on the concept of water reduction and sustainability.

AGM Collins shared with the group that Facilities Manager Steve Myli has worked on the re-landscaping of the Trudeau Training Center incorporating California native plants, with the Main Office soon to follow.

RECOMMENDATION

Recommended by Director Radke and seconded by Director Weiskamp, the Board Executive Committee unanimously approved the draft Sustainability Policy and staff will forward it to the full Board of Directors for review and approval.

PUBLIC COMMENTS

There were no public comments.