



MEMORANDUM

Date: 09/15/2020

To: City Manager Steve McHarris, City Attorney Chris Diaz

CC: City Clerk Mary Lavelle

Subject: City Council Events

From: Councilmember, Karina Dominguez

Background:

During the Fiscal Year 2019-2020 Budget development process, the City Council expressed an interest in individual Councilmembers having the ability and funding to host events that benefit the City and the Milpitas community, and to use City facilities for this purpose.

The proposed Council policy for events establishes City policy, guidelines and conditions for the use of funds appropriated to individual members of the City Council for hosting events, donating to intergovernmental agencies, faith base organizations, Neighborhood Associations, non-profit organizations and other agencies providing a free service in Milpitas and are requesting fee waivers for events. These events support the City Council's priorities and shall not be related to campaigning or any other political advocacy efforts and shall generally serve a public purpose.

On November 5, 2019 a draft policy came before Council and feedback was provide to staff in order to bring back a policy with modifications. The final proposal for council consideration and approval can be found in attachment 1 of this memo.

The City of Milpitas' Facility Use Manual is the guiding document for the general use and rules of the City's Indoor and Outdoor facilities, fields and parks (Facility). At the Special City Council Budget Study Session on March 12, 2019, Council directed staff to bring back modifications to the Facility Use Manual that would enable the use of City facilities by City Councilmembers for non-campaign related community programs and events. These modifications are located on pages 4-8 of the Manual. A copy of the full manual can be here: <http://www.ci.milpitas.ca.gov/wp-content/uploads/2016/08/Facility-Manual-Updated-062016-FINAL.pdf>

Analysis:

The Approved Fiscal Year 2020-2021 Budget includes funding in the amount of \$25,000 for the City Council (\$5,000 for each member of the Council) to make donations to intergovernmental agencies and non-profit organizations and to approve fee waivers for events and for individual Councilmembers to either host his/her own events or to donate to additional events and provide fee waivers, distinct from those submitted per the adopted policy – City Council Donations and Fee Waiver/Reduction Policy are regulated by Council policy 01-07.

Per this policy, all requests for events and fee waivers or donations for organizations providing a public service in Milpitas shall continue to be brought forward for Council consideration.

Based on prior council direction and feedback we are proposing the following council policy for city sponsored events, please see attachment 1:

Under the California Constitution, Article XVI, Section 6, there is a prohibition on the gift of public funds unless there is a documented public purpose. Further, California Government Code Section 8314 prohibits the use of public resources, including land and facilities, for campaign related purposes.

City Councilmembers wishing to host a program or event in a City-owned Facility could implement a request and approval process as part of the City of Milpitas Facility Use Manual, as long as the proposed program or event is non-campaign related and has a wide-reaching public purpose serving the Milpitas community at large.

To ensure compliance with state law and City Council policy, the review and approval of a Councilmember's request to host a program or event in a City-owned Facility would go through a process ensuring the documentation of public purpose, availability of facility space, and approval of funds associated with the use of a City-owned Facility by the City Council. City Councilmember requests would be submitted on a request form to: 1) describe the proposed program or event scope, 2) state additional community partners, 3) explain how the event aligns with a city priority and 4) select a date that is not currently reserved by another group or departments. The request form would be reviewed by the City Attorney's office and City Manager's office for public purpose review and determination of an available facility. Once reviewed, the request would be agendaized for a future City Council meeting for approval.

The revocation of an approval to a City Councilmember could occur if the use of the City facility violates state law or if the use is inconsistent with the Councilmember's written request.

The final language to update the City of Milpitas Facility Use Manual can be found in attachment 2 of this memo.

Fiscal Impact No additional funding is needed at this time.

No. x-x Effective

: xx Revised:

CITY OF MILPITAS, CALIFORNIA

SUBJECT: COUNCIL POLICY FOR EVENTS

PURPOSE OF THE POLICY

The purpose of this policy is to establish City policy, guidelines and conditions for the use of funds appropriated to the City Council for hosting or donating to intergovernmental agencies and non-profit organizations and for requesting fee waivers for events. This policy addresses the desire of the City Council for individual Councilmembers to be able to host events that benefit the City and the Milpitas community. These events support the City Council's priorities and shall not be related to campaigning or any other political advocacy efforts and shall generally serve a public purpose.

PROCEDURES

A. General Conditions 1. The City Council has an approved budget for donations and fee waivers for intergovernmental agencies or non-profit organizations that provide Milpitas community benefit. In addition to this, each individual Councilmember shall have an approved budget for either hosting his/her own events or for donating to additional events and providing fee waivers, distinct from those submitted per the adopted policy – City Council Donations and Fee Waiver/Reduction Policy are regulated by Council policy 01-07. Per this policy, all requests for events and fee waivers or donations for non-profit organizations shall continue to be brought forward for Council consideration. 2. Guidelines for the use of City facilities for a Councilmember hosted or sponsored program or event are outlined in the City of Milpitas Facility Use Manual (Indoor and Outdoor Facilities). 3. Any events hosted or sponsored by an individual Councilmember shall be for a wide-reaching public purpose serving the

Milpitas community at-large, and shall support the priorities of the full Council. Events shall be open to the public and to any other Councilmembers who may wish to attend. Councilmember hosted events shall not be related to a campaign event. To ensure the integrity of the events, no hosted events shall take place in the three months preceding a municipal election. 4. Staff support for any individual Councilmember hosted events shall be limited to 5 hours, including staff time needed for facility use, unless approved by the full Council. The level of staff support, excluding general facility attendant staff, will be identified and assigned by the City Manager or his/her designee. 6. Events that are approved by the council would be able to use the city logo for marketing and communication purposes. 5. The approved budget may be used for facility rentals within the City of Milpitas, refreshments, contractual services, and supplies but cannot be used to provide gifts to event participants or to serve alcohol.

B. Responsibility of the Councilmember 1. Each Councilmember, with the assistance of staff, must complete the Event and Facility Use Request Forms and submit to the City Manager and City Attorney's office for review to ensure compliance with state law, and approval. 2. Event coordination and any purchase of refreshments and supplies for events hosted by individual Councilmembers shall be the responsibility of the individual Councilmember. 3. Each Councilmember shall submit all receipts related to the event within 30 days after the event in order to be reimbursed. 4. Each Councilmember shall provide a brief verbal report to the full Council on the benefits and outcome of the event, including event attendance.

C. Responsibility of the City Manager It is the City Manager or designee's responsibility to review and track the events budget for each Councilmember and to provide regular updates.

D. Expense Reimbursement Councilmembers shall submit expense reimbursement requests on Finance Department provided forms with original receipts within 30 days after the event.

I. PRIORITIES

Priorities are designed to determine fee and reservation status.

1.1 To provide for public activities in the best interest of the Community, City facilities will be reserved in accordance with the following group priorities:

Priority I. City administered programs, including any program hosted by a councilmember for a non-campaign related community event with a wide-reaching public purpose serving the Milpitas community at-large, as determined by the City Manager in consultation with the City Attorney. Under the California Constitution, Article XVI, Section 6, there is a prohibition on the gift of public funds unless there is a documented public purpose. Further, California Government Code Section 8314 prohibits the use of public resources, including land and facilities, for campaign related purposes.

Any councilmember request under Priority I shall be on a form established by the City Manager. In the form, the councilmember shall state why the event is not campaign related and provide a documented public purpose consistent with state law. The City Attorney shall review the form to ensure compliance with state law. Approval of councilmember requests under Priority I shall be approved by the City Council

1. No deposit 3. No staff fee 2. No rental fee 4. No application fee

Priority II. Programs or activities for Senior Citizens and approved co-sponsored groups which are principally composed of local residents (51% or more), public schools located in Milpitas, the Milpitas Chamber of Commerce and governmental agencies(excluding staff trainings, poll worker trainings, staff retirement parties, staff / volunteer recognition events).

1. No deposit 2. Rental fee according to Fee Schedule / Joint Use Agreement 3. Staff fee according to Fee Schedule / Joint Use Agreement 4. Application fee (non-refundable) 5. Any applicable insurance and processing fees that may apply

Priority III. Non-profit groups that are organized for recreational, social, cultural, religious or civic purposes and whose membership is principally composed of local residents (51% or more) or who is based in Milpitas and renting no more than 3 rental dates per quarter.

1. Facility deposit according to the Fee and Deposit Schedule 2. Rental fee according to Fee Schedule 3. Staff fee according to Fee Schedule 4. Application fee (non-refundable) 5. Any applicable insurance and processing fees that may apply

Priority IV. Any other group, business, private school or individual resident of the City of Milpitas.

1. Facility deposit according to the Fee and Deposit Schedule 2. Rental fee according to Fee Schedule 3. Staff fee according to Fee Schedule 4. Application fee (non-refundable) 5. Any applicable insurance and processing fees that may apply

Priority V. Any non-resident group, business or individual.

1. Facility deposit according to the Fee and Deposit Schedule 2. Rental fee according to Fee Schedule 3. Staff fee according to Fee Schedule 4. Application fee (non-refundable) 5. Any applicable insurance and processing fees that may apply

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II. APPLICATIONS

1.A. Permits for use of City facilities (indoor and outdoor) shall be issued by the City upon the approval of the City Manager or authorized representative and shall be consistent with City regulations governing such use. No blanket or on-going permits will be allowed. Applications for consecutive-day events will be considered only during minimal use periods.

2.B. The use of those facilities shall not be inconsistent with other such use for City purposes or interfere with the regular conduct of City programs. City sponsored programs shall receive first priority over use by any other group or organization. The City reserves the right, if necessary, to preempt, or revoke permit (if previously issued) for the use if for any reason it becomes unavoidably necessary for the City to utilize said facility or facilities at the same time. If and

when such action is necessary, the City will give applicants as much advance notice as possible. The City also reserves the right to revoke any approval provided to a Milpitas councilmember under Priority I if the use of the City facility violates state law or if the use is inconsistent with the councilmember's written request.

3.C. Applications for use of indoor City facilities and parks will not be accepted more than one (1) year to the date prior to proposed use for Priorities II-IV.

4.D. Priority V applications will not be accepted more than 6 months prior to the proposed use.

5.E. Applications for the Milpitas Sports Center Large Gym will not be accepted more than 90 days prior to proposed use for Priorities II-V.

6.F. For outdoor City facilities and sports fields, applications are accepted six (6) months to the date prior to the proposed use for Priorities II-IV and 90 days for Priority V.

7.G. Applications will not be accepted with less than 30 days prior to the proposed date, unless authorized by the Recreation Services Manager or his/her authorized representative.

8.H. In cases where the earliest date to reserve a facility falls on a weekend (Saturday or Sunday) or City holiday, reservations will be accepted on the preceding weekday. Should the preceding weekday be a City holiday, applications will be accepted on the prior workday.

9.I. Priority III organizations may reserve up to three dates on one application per quarter and must submit an application according to the reservation schedule listed on Page 5. Groups may not use a facility without an application on file. Should additional maintenance or custodial services be required, or the group exceeds the reserved rental hours, the groups will be assessed additional fees or charges as necessary.

10.J. Priorities II and III may reserve indoor facilities for one-time special event or party under the set Fee Schedule for Priority IV rentals / charges.

11.K. Priority III groups may drop off Facility Use Application(s) with requested dates and times as outlined above during facility business hours.

12.L. On the following business day, the designated City representative will review all Priority III applications with requested dates and times and distribute dates equally between any groups requesting the same dates. Should there not be an equal amount of dates available, the city representative will do a lottery pull for any extra date an