
M E M O R A N D U M

DATE: May 29, 2007
TO: City Council Members
FROM: Jennifer Bruno, Policy Analyst
RE: Discussion regarding budget implications of special events

The following is a briefing regarding the City's support of special events held on City property, and the budget implications relating to the policy of partial, full, or no cost recovery. The Administration is intending to revise the City's current special events ordinance in order to address the issue of cost recovery but is looking for policy input from the Council before transmitting suggested changes.

KEY ELEMENTS

- A. The services used relating to special events include overtime personnel (police and fire personnel, parks staff), administrative review time, barricading, meter bagging, sports turf protection, garbage/recycling collection, equipment and supplies, and utilities.
- B. Currently the City does not have a formal policy about level of cost recovery, nor does the City have a formal mechanism for tracking costs and collecting fees. All costs and fees are tracked and collected through individual departments.
- C. The purpose of the attached transmittal is to provide an analysis of various policies that the City *could* adopt regarding cost recovery and special events. Not included in this analysis are any estimates of economic impact (through sales taxes) generated by visitors to the various City events that patronize local businesses. The Council may wish to ask the Administration if that kind of data is available and if it should be factored in terms of event cost recovery.
- D. The following chart represents a breakdown of the current fiscal impact of special events to the City:

Breakdown of Net Financial Impact of Special Events

Amount Spent Supporting Special Events in FY 2007 (all City Departments)	\$ 542,596
Total Amount Recovered	\$ (70,139)
<i>Application Fee Revenue</i>	\$ (12,400)
<i>Other Cost Recovery - specific charges based on services</i>	\$ (15,838)
<i>Concession Agreement Fees</i>	\$ (41,901)
Financial Impact to City	\$ 472,457
General Fund Offset Appropriation to SLCPD for Special Events Overtime	\$ (221,010)
Net Impact to City (to be absorbed within current other department budgets)	\$ 251,447

- E. Currently the City is recovering \$70,139 (about 13%) of expenses incurred as a result of special events. The City currently waives approximately \$16,580 in bagged meter fees and other special event application fees. If the City did not waive any of these fees and did not change any other special event policy, this would increase cost recovery to \$86,719 (about 16%).

- F. Currently the only City department that has a specific budget line item for cost recovery relating to special events is the Police Department (\$221,010 in FY 2007).
- G. The following chart, provided by the Administration, outlines various policy options before the Council - current status (very little cost recovery), Partial Cost Recovery, and No Cost Recovery:

	Current Scenario	No Cost Recovery Policy Scenario	Cost Recovery Policy Scenario
General Fund Resources expended by City Departments	\$ 542,596	\$ 542,596	\$ 542,596
Cost Recovery:			
Application Fee Revenue	\$ (12,400)	\$ -	\$ (18,000)
Recovery of Costs Associated with Provision of Additional City Services*	\$ (15,838)	\$ -	\$ (132,300)
Exclusive Use of Property Fes/Concession Agreement Fees	\$ (41,901)	\$ -	\$ (41,901)
Waived Fees (for bagging meters and special events applications)	\$ 16,580	\$ 16,580	\$ (16,580)
Demand Increases:			
Increased Demand for Services	\$ -	\$ 266,500	\$ -
Increased Number of Events**	\$ -	\$ 82,000	\$ 41,000
Total Impact to City	\$ 489,037	\$ 907,676	\$ 374,815
<i>Recovery Rate</i>	13%	0%	38%
Less General Fund Appropriation (subject to change):			
Offset by Current General Fund Appropriation to the Police Department	\$ (221,010)	\$ (221,010)	\$ (221,010)
Net Impact to the City	\$ 268,027	\$ 686,666	\$ 153,805

* Under the "Partial Cost Recovery Policy" the City would centralize and standardize the assessment and collection of fees, which would result in a dramatic increase in fees collected

** It is assumed that there will be a natural growth in the number of events, even if the "Partial Cost Recovery Policy" is pursued

- H. Current Situation - the following chart breaks down the pros and cons of the current situation:

Pros	Cons
Allows for flexibility in accommodation of unique events that may not have the necessary finances to pay full costs	Forces City departments to absorb unpredictable costs each year
Encourages events to locate in the City due to low cost	Because no formal, written policy about fee waivers, the possibility exists for inequitable treatment of events
Because events are encouraged within the City, local businesses may see increased revenue, which in turn may also benefit the City	If fees are waived in a case where there is an exclusive use of public property (with an admission charge), there could be a Utah Code 10.8.2 ("Public Benefits for Private Purposes") issue

- I. No Cost Recovery - the following chart breaks down the pros and cons of a policy involving no cost recovery for special events:

Pros	Cons
Allows for maximum accommodation of unique events that may not have the necessary finances to pay full costs	Forces City departments to absorb unpredictable costs each year
Encourages events to locate in the City due to low cost	Possible decreased quality in events as barrier for entry is lowered
Because events are encouraged within the City, local businesses may see increased revenue, which in turn may also benefit the City	If fees are waived in a case where there is an exclusive use of public property (with an admission charge), there could be a Utah Code 10.8.2 ("Public Benefits for Private Purposes") issue

May also encourage filming in Salt Lake City to increase, as it is expected that fees would be waived for filming as well (\$25 per location currently)	May have an adverse affect on City facilities if too many events are located on City property and not enough time/labor is available to satisfactorily repair said property.
	May have an adverse impact on other City functions if departments are diverting resources to completely service the event.
	Events may find ways to cut costs by increasing their reliance on City services (i.e. cleanup volunteers or other contracted services).
	As events become more frequent their may become more competition among events

J. Partial Cost Recovery – the following chart breaks down the pros and cons of a policy involving partial recovery of costs:

Pros	Cons
Allows departments to recoup a greater percentage of operational costs, ensuring service level to the remainder of the City remains high.	May discourage event sponsors from holding events in Salt Lake City and work against the City's overall goal of increasing the number and quality of community events.
Centralized fee system may be easier for the event sponsor to manage, and will be easier for the City to track	May decrease flexibility in accommodation of events that may not have the budget necessary (this could be addressed through a more formalized appeal process).
Increases predictability, both for event sponsors and for City departments.	If fees are waived in a case where there is an exclusive use of public property (with an admission charge), there could be a Utah Code 10.8.2 ("Public Benefits for Private Purposes") issue
Would ensure that City property is well maintained, as departments will have the resources necessary.	
Would formalize a currently very informal process, ensuring standards are kept high in the future.	

K. The following chart breaks down each department and identifies the cost recovery mechanism (if any):

Department	Expenditures (FY 2004)*	Cost Recovery?
Police	\$225,312	General Fund Appropriation, charge by event for overtime (sometimes waived)
Streets	\$6,888	Charges for barricades (only charged to Farmer's Market), but not for parade striping
Refuse	\$14,312	Yes (charged to about half of events)
Parks	\$86,144	Sometimes
Parking Enforcement	\$55,000	No
Property Mgmt	\$1,056	
Engineering	\$0	No
Fire	\$24,956	No
Transportation	\$9,410	Charge \$10-25 per bagged meter (this fee is waived for most events)
Special Events	\$67,829	\$100 application fee per event (waived for events seen as "City Events" - Jazz Fest, Lights On, Living Traditions, SLC Marathon)*
Total	\$490,907* (in FY 06 expenditures were \$542,596)	\$100 application fee per event (waived for events seen as "City Events" - Jazz Fest, Lights On, Living Traditions, SLC Marathon)*

*data from FY 2004

- L. Currently an event can appeal any charges from the City through a process outlined in the current special events ordinance – approval from the Mayor’s designee (*see existing ordinance – Attachment A*).
- M. Currently fees that are charged by departments (police, fire, refuse, etc.) are charged and collected by the department. It is the responsibility of that department to charge (or waive) these fees, and in many cases there is a lack of consistency across departments about when to waive fees and which fees are eligible to be waived. The Administration is proposing to centralize the process (within Special Events/Public Services Department) to help standardize this process. However, no ordinance altering or standardizing these fees has been proposed. The Administration has indicated that they will wait for Council direction before transmitting a revised ordinance.
- N. The following outlines the variety of ways that other Cities structure their special event policies:
 - a. Park City – intends to recover 80% of the expenses incurred by the Recreation Department at the Racquet Club and 100% of the expenses incurred by the Golf Course – structures fees accordingly.
 - b. Pittsburgh – assumes the first \$750 of all costs associated with any special event held in the City and the remaining costs are split 50/50 by the event sponsor and the City. The Chief of Public Safety can require additional fees for providing employees.
 - c. Kirkland, WA – requires payment of fees for the purpose of cost recovery. Research indicates that their cost recovery rate ranges from 45 – 60%.
 - d. Seattle, WA – requires payment of fees based on whether or not there is an entry fee for the event, and how many people will be attending:

Anticipated Attendance	("Sporting Event") or "Parade" (Plus \$.50 per entrant) for Sporting Event		Day Event	
	No Entry Fee 2003	Entry Fee 2003	No Entry Fee 2003	Entry Fee 2003
50 - 1,000	\$170	\$710	\$150	\$710
1,001-5,000	\$370	\$1,780	\$370	\$1,430
5,001-10,000	\$730	\$2,860	\$730	\$2,140
10,001-25,000	\$1,430	\$4,270	\$1,430	\$3,550
25,001-50,000	\$4,270	\$9,550	\$4,270	\$7,820
50,000 or MORE	\$26,530	\$33,290	\$26,530	\$33,290

- e. Hermosa Beach, CA – requires payment of fees based on level of “impact”:

Impact	Definition	Base Charge	Extra
Moderate Impact	less than 3,000 people/one day	\$ 2,193	
Medium Impact	more than 3,000 people/one day	\$ 2,412	
High Impact	over 5,000 people and/or revenues over \$50,000	\$ 4,386	\$200/day and a % of gross admission revenues
Non-profit groups			
<i>event under 1,500</i>	any event less than 1,500 people	\$1 per person up to 1,500	
<i>event over 1,500</i>	Commercial Rates		

- O. The Administration is looking for policy input from the Council regarding this issue and will prepare amendments to the City’s current ordinance.

POTENTIAL MATTERS AT ISSUE

- A. The Council may wish to have a policy discussion about the benefits of promoting public and City events vs. the costs incurred by the City.
- B. The Council may wish to ask the Administration what is the current policy (written or understood) for waiving fees of any kind, and would this policy continue under a new scenario (such as the partial cost recovery scenario). If no such policy exists, the Council may wish to ask the Administration to forward a policy so that the Council can formally adopt it, in order to more fairly.
- C. The Council may wish to ask the Administration for a more detailed list of City fees. If the Administration’s direction is to centralize fees, the Council may wish to ask the Administration for a breakdown of what those fees would look like, supported by the justification (i.e. cost incurred by the various departments).
- D. The Council may wish to ask the Administration if it would make sense to hire a consultant to come up with a “fair” standardized fee schedule for the various groups that host events in the City.
- E. The Council may wish to ask the Administration to provide a quarterly report detailing costs of providing services to these various events, as well as the fees collected and waived.

Attachment A

Chapter 3.50

COMMERCIALLY RELATED SPECIAL EVENTS AND FREE EXPRESSION ACTIVITIES

3.50.010 Purpose.

This chapter intends to protect the rights of citizens to engage in activities protected by the free speech and expression provisions of the constitutions of Utah and the United States subject to lawful time, place and manner regulations necessary to protect the public health, safety and welfare. It is also the purpose and intent of this chapter to establish a process for permitting individuals and groups to use city streets, property, facilities or services for commercially related special events and free expression activities while maximizing the safety of participants, minimizing the inconvenience to the general public and disruption of public services and, providing for cost recovery of city services required for commercially related special events, when such recovery will not unreasonably or unlawfully burden constitutionally protected activities. (Ord. 23-93 § 4, 1993)

3.50.020 Definitions:

As used in this chapter:

- A. "Basic city services" means those services determined in the sole discretion of the city to be necessary to protect the public health, safety and welfare of participants and spectators at any commercially related special event or free expression activity.
- B. "City costs" means any expense incurred by the city, as a result of a commercially related special event or free expression activity except those for basic city services and except for city services specifically budgeted for commercially related special events or free expression activities.
- C. "City services" means the provision of city employees or equipment for services related to commercially related special events or free expression activities including police, fire and building inspection services other than those which are determined by the city to be basic city services. City services shall also include the city allowing the applicant or sponsor the exclusive use of city property including the exclusive right to sell merchandise on the property.
- D. "Commercially related special event" means:
 1. Any organized formation, parade, procession, assemblage of people, animals, vehicles or any combination thereof, which assembles or travels in unison with common purpose upon any public street, highway, alley, sidewalk or other public way and which does not comply with normal or usual traffic regulations or controls; or
 2. Any organized assemblage at any public park or other city owned public forum which gathers for a common purpose or event under the discretion and control of a responsible person or entity and which requires more services, facilities or equipment than normally provided to groups which reserve park facilities; and
 3. In either circumstance:
 - a. Which charges a fee of any kind for participation in the event or for viewing any or all of the event, or
 - b. Which is organized by an individual or entity for the purpose of making a financial return on the event.
 4. Commercially related special event shall not include any event or activity of a type specified above which claims to be a "free expression activity" as defined below.
- E. "Events review committee" means a committee comprised as follows:
 1. Voting members (or their designees):
 - a. The mayor,
 - b. The city attorney,
 - c. The chief of police,
 - d. The director of public services, and
 - e. Up to six (6) residents of the city, appointed by the mayor and confirmed by the city council;
 2. Nonvoting/ex officio members (or their designees):
 - a. The director of Salt Lake Valley health department,
 - b. The chief executive officer of the Utah transit authority,
 - c. The director of the Salt Lake City chamber of commerce, and

- d. The director of the city's downtown business improvement district contractor.
 - F. "Events coordinator" means a city employee designated by the mayor for the purpose of administering the provisions of this chapter.
 - G. "Free expression activity" means any formation, procession or assembly upon any public street, park or other public way or other traditional public forum in a manner which does not comply with normal or usual regulations or controls and which claims that it has the purpose of engaging in constitutionally protected speech or assembly.
- Free expression activity includes:
- 1. "Advanced planned free expression activities" where the activity is scheduled sufficiently in advance of its occurrence, such that the city may lawfully require compliance with certain of the permitting requirements as specified below; and
 - 2. "Short notice free expression activities" which arise out of or are related to events or other public issues which cannot be reasonably anticipated far enough in advance of their occurrence to reasonably allow compliance with the requirements for advanced planned free expression activities. (Ord. 1-06 § 30, 2005: Ord. 23-93 § 4, 1993)

3.50.030 Advanced Planned Free Expression Activities:

- A. Permit Requirements: Advanced planned free expression activities shall comply with sections 3.50.050 (permit required), 3.50.060 (permit application), 3.50.070 (fee), 3.50.080 (routes and locations), 3.50.100 (insurance), 3.50.130 (permit issuance - advanced planned free expression activity), 3.50.150 (permit possession), and 3.50.180 (conflicting applications) of this chapter, except that the requirement for insurance as provided by section 3.50.100 of this chapter shall be waived unless the activity involves the use of fireworks or other similarly extraordinarily hazardous features.
- B. Provisions Of Basic City Services: The city shall provide basic city services for advanced planned free expression activities at no cost to the applicant, sponsor or participants. Any city services beyond the basic city services will be provided only if recovery of city costs has been agreed to between the city and the applicant or sponsor. (Ord. 7-02 § 1, 2002: Ord. 23-93 § 4, 1993)

3.50.040 Short Notice Free Expression Activities:

- A. Notification: To the extent reasonably possible, considering the nature of the short notice free expression activity, the organizer or sponsor of such activity shall notify the events coordinator of the information specified in subsection B of this section.
- B. Permit Issuance: The events coordinator shall promptly issue a permit for the short notice free expression activity unless the events coordinator finds, in writing, that the proposed activity at the proposed location or route unreasonably interferes with the movement of police, fire, ambulance and other emergency vehicles or other provision of public health, safety and welfare services so as to create an immediate clear and present danger to public health, safety or welfare.
- C. Site And Route Limitations: Short notice free expression activity shall not block or impede vehicular or pedestrian travel or violate city ordinances related to parking, vehicular traffic or pedestrian crossings.
- D. Unpermitted Short Notice Free Expression Activities: If it is not reasonably possible to obtain a permit in advance of a short notice free expression activity, no permit shall be required providing that the prohibitions of subsections B and C of this section are not violated.
- E. Basic City Services: The city shall provide basic city services at no cost to any short notice free expression activity. (Ord. 23-93 § 4, 1993)

3.50.050 Permits Required-Exceptions:

- A. Permits Required: It is unlawful to conduct, promote, manage, aid, solicit attendance at or participate in any commercially related special event without first obtaining a permit for the event.
- B. Exceptions: A commercially related special event permit shall not be required for the following:
 - 1. Funeral processions by a licensed mortuary;
 - 2. Activities lawfully conducted by a governmental agency within the scope of its authority;
 - 3. Filmmaking activities, if a permit for such activities has been issued by the city;
 - 4. Block parties or other similar activities sponsored by neighborhood based community organizations recognized pursuant to chapter 2.60 of this code; provided that authorization for such event has been previously obtained from designated city departments. (Ord. 23-93 § 4, 1993)

3.50.060 Permit Application:

- A. Time: Applications for a commercially related special event permit shall be filed with the events coordinator no less than thirty (30) days prior to the event.
- B. Form: The application shall be on a form provided by the city and shall specify the following:
 1. Names And Addresses: The name, address and telephone number of:
 - a. The applicant,
 - b. The person chiefly responsible for the conduct of the event,
 - c. The sponsoring organization and its chief officer;
 2. Time: The date, place and time of the event, including approximate times for assembly and disbanding;
 3. Routes: If the event is not confined to one specific location, the applicant shall also specify, by a map and written narrative:
 - a. The route of the event,
 - b. The location of any assembly or disbanding areas, and
 - c. The location of any reviewing stands and any other areas reserved for observation of the event;
 4. Alternatives: Alternative routes, sites or times which may be acceptable to the applicant;
 5. Participants And Spectators: An estimate of the approximate number of persons, animals, and/or vehicles which will participate in the event including:
 - a. A description of the kinds of animals, types of vehicles, number of bands or other musical units,
 - b. The nature of any sound amplification devices, and
 - c. An estimate of the approximate number and anticipated physical distribution of spectators along the route expected to view the event;
 6. Public Health Facilities: The number and location of portable sanitation facilities and other equipment or services proposed by the applicant to meet public health or safety concerns or legal requirements;
 7. Monitors: The number of persons whom the applicant will have at the event to monitor or facilitate the event and to provide spectator or participant control and direction;
 8. Emergency Medical Facilities: Arrangements for first aid or other emergency medical services; and
 9. Special Requirements: Any special or unusual requirements of the event.
- C. Insurance: The applicant shall certify that insurance, as required by section 3.50.100 of this chapter, will be provided prior to the issuance of a permit.
- D. Cost Recovery: If the applicant desires any city services beyond the basic city services, the applicant shall certify that prior to the issuance of a permit, the applicant will provide to the city a bond or other evidence of financial responsibility, in a form acceptable to the city attorney, for the payment of city costs.
- E. Claim Of Free Expression Activity Exemption: If the applicant claims that its proposed event should be treated as a free expression activity instead of a commercially related special event, the applicant shall specify the basis for such a claim. (Ord. 23-93 § 4, 1993)

3.50.070 Fee:

Along with the application for a commercially related special event permit, the applicant shall pay a fee in the amount of one hundred dollars (\$100.00) as partial reimbursement to the city for administrative and processing expenses related to the application. Along with the application for a free expression activity permit, the applicant shall pay a fee in the amount of five dollars (\$5.00) as partial reimbursement to the city for administrative and processing expenses related to the application. (Ord. 7-02 § 2, 2002: Ord. 23-93 § 4, 1993)

3.50.080 Routes And Locations:

- A. Standard Routes And Locations: The events review committee shall establish and adopt standard routes and locations for commercially related special events and advanced planned free expression activities. Until the events review committee shall have adopted such standard routes and locations, the standard routes and locations previously adopted by the city shall be used.
- B. Requests For Nonstandard Routes Or Locations: The committee shall hear requests from applicants for commercially related special events and advanced planned free expression activities permits desiring to use nonstandard routes or locations and shall approve such proposed nonstandard routes or locations if it finds that the requirements of section 3.50.110 of this chapter are met. (Ord. 23-93 § 4, 1993)

3.50.090 City Cost Recovery Estimate For Commercially Related Special Events:

- A. The events coordinator shall make an estimate of the city costs for city services for the commercially related special event, based on the application, and promptly notify the applicant of the estimate. (Ord. 23-93 § 4, 1993)

3.50.100 Insurance For Commercially Related Special Events:

- A. Liability Insurance: The applicant or sponsor of a commercially related special event shall possess or obtain comprehensive general liability insurance to protect the city against loss from liability imposed by law for damages on account of bodily injury or property damage arising from the event. Such insurance shall name, on the policy or by endorsement, Salt Lake City Corporation, its officers, employees and agents, and, as required, any other public entity involved in the event as additional named insureds. Insurance coverage must be maintained for the duration of the event. The policy must provide that notice of cancellation prior to the event must be immediately provided to the city.
- B. Limits: Coverage shall be in a combined single limit of one million dollars (\$1,000,000.00). (Ord. 23-93 § 4, 1993)

3.50.110 Standards For Issuance Of Permit-Commercially Related Special Event:

The city shall issue a commercially related special event permit if the events coordinator finds:

- A. Arterial Routes: The conduct of the event will not:
 - 1. Substantially interrupt the safe and orderly movement of public transportation or other vehicular and pedestrian traffic in the area of its route, nor
 - 2. Conflict with construction or development in the public right of way or at public facilities, nor
 - 3. Block traffic lanes or close streets during peak commuter hours on weekdays between seven o'clock (7:00) A.M. to nine o'clock (9:00) A.M. and four o'clock (4:00) P.M. to six o'clock (6:00) P.M. on any primary arterial streets or principal commuter routes designated by the city;
- B. Interference With Other Events: The event will not substantially interfere with:
 - 1. Any other commercially related special event,
 - 2. Any other event for which a permit under this chapter has already been granted, nor
 - 3. The providing of city services in support of other scheduled events, including free expression activities and unscheduled governmental functions such as visits of chiefs of state;
- C. Movement Of Police And Fire Vehicles: The concentration of persons, animals or vehicles will not unduly interfere with the movement of police, fire, ambulance or other emergency vehicles on the streets nor with the provision of other public health or safety services;
- D. General Traffic: The event will not have an unduly adverse impact upon residential or business access and traffic circulation in the same general venue;
- E. Police, Fire And Public Service Coverage: The conduct of the event will not require the diversion of so great a number of police, fire or other essential public employees from their normal duties as to prevent reasonable police, fire or other public services protection to the remainder of the city;
- F. Danger Of Disorder: The event does not create the immediate danger of disorderly conduct, likely to endanger public safety or to result in significant property damage;
- G. Public Health Violations: The event will not violate public health or safety laws or fail to conform to the requirements of law or duly established city policy;
- H. Exclusive Use Of Public Property: The event will not require the exclusive use of park or other public areas in a manner which will adversely impact upon the reasonable use or access to those areas by the general public unless such exclusive use has been approved by the department of public services pursuant to the department's published policies;
- I. Willingness To Comply With Conditions: The applicant demonstrates an ability and willingness to conduct an event pursuant to the terms and conditions of this chapter and has not repeatedly failed to conduct a previously authorized event in accordance with the law or the terms of a permit, or both;
- J. Approval Of Other Public Agencies: The applicant has obtained the approval of any other public agency within whose jurisdiction the event or portion thereof will occur;
- K. Sponsors' Duties: The applicant has provided for the following, when applicable:
 - 1. The services of a sufficient number of traffic controllers,
 - 2. Monitors for crowd control and safety,
 - 3. Safety, health or sanitation equipment, services or facilities reasonably necessary to ensure that the event will be conducted with due regard for public health and safety,
 - 4. Adequate off site parking or shuttle service, or both, when required to minimize any substantial adverse impacts on general parking and traffic circulation in the vicinity of the event,
 - 5. Required insurance, financial responsibility for the event or surety bonds, and

6. An adequate first aid or emergency medical services plan, based on event risk factors. (Ord. 23-93 § 4, 1993)

3.50.120 Permit Issuance:

- A. Security For City Costs For Commercially Related Special Events: In the event that the events coordinator determines that a permit for a commercially related special event be issued, the events coordinator shall issue the permit when the applicant provides certificates verifying the insurance required by section 3.50.090 of this chapter and either pays or posts security, in a form approved by the city attorney's office, for the estimated city costs for city services of the commercially related special event.
- B. Conditional Issuance: The events coordinator may condition the issuance of a permit upon the applicant's agreeing to correct any deficiencies identified by the committee regarding the standard specified in section 3.50.110 of this chapter. (Ord. 23-93 § 4, 1993)

3.50.130 Standards For Issuance Of Permit-Advanced Planned Free Expression Activities:

The events coordinator shall issue an advanced planned free expression activity permit if the events coordinator finds that the provisions of subsections 3.50.110A (arterial routes), 3.50.110B (interference with other events), and 3.50.110C (movement of police and fire vehicles) are met. Not more than twenty eight (28) days after receipt of a fully completed application for a permit for an advanced planned free expression activity, the events coordinator shall either issue or deny the permit, and shall notify, in writing, the applicant of such issuance or denial. If, within that time period, the events coordinator fails to notify the applicant of the denial of the permit, the permit shall be deemed to have been issued. (Ord. 21-02 § 1, 2002: Ord. 23-93 § 4, 1993)

3.50.140 Additional Permit Conditions:

If information or circumstances related to any permit materially changes between the time of the issuance of the permit and the permitted commercially related special event or free expression activity, the events coordinator may impose, in writing, additional conditions on the permit necessary to meet the standards specified in section 3.50.110 of this chapter. (Ord. 23-93 § 4, 1993)

3.50.150 Contents And Possession Of Permit:

- A. Contents: Permits for any commercially related special event or advanced planned free expression activity subject to the provisions of this chapter shall contain, if relevant, the following information or conditions:
 1. The date, assembly areas, and time for assembly and starting time;
 2. The specific route plan;
 3. The minimum and maximum speeds of vehicles, entries and participants;
 4. The number and types of persons, animals and vehicles, the number of bands, other musical units and equipment capable of producing sound, if any, and limitations thereon pertaining to noise abatement;
 5. The maximum interval of space to be maintained between units;
 6. The portion of the street, public way or city owned public forum area that is to be occupied by the commercially related special event or advanced planned free expression activity and the location of reviewing or audience stands, if any;
 7. The number and location of traffic controllers, monitors, other support personnel and equipment and barricades to be furnished by organizers;
 8. The area and time for disbanding;
 9. Conditions of the exclusive control or regulation of concessionaires and related sales activity by the sponsor during the commercially related special event;
 10. Provisions for any required emergency medical services; and
 11. Such other information and conditions as are reasonably necessary for the conduct of the commercially related special event or advanced planned free expression activity and the enforcement of this regulation, including the requirement for the on site presence of the organizer or designated representative of the sponsor or applicant of the commercially related special event or advanced planned free expression activity for all coordination and management purposes.
- B. Possession. Permits shall be kept available at the site of the event in the method prescribed by the events coordinator applicable to the particular event and shall be exhibited upon demand of any sworn law enforcement official. (Ord. 23-93 § 4 (part), 1993)

3.50.160 Permit Revocation For Fraud:

The events coordinator may revoke any permit issued pursuant to this chapter if the events coordinator determines that any required information submitted by the applicant was materially incorrect or fraudulently provided. (Ord. 23-93 § 4, 1993)

3.50.170 Revocation For Cause-Notice To Cure:

- A. Notice To Cure: If the mayor's designee, the events coordinator or any sworn law enforcement officer determines that the conditions of any permit issued pursuant to this chapter are being violated, notice shall be given to the applicant, sponsor or designated organizer's representative of the commercially related special event or free expression activity to cure the violation.
- B. Failure To Cure: It is unlawful for the applicant, sponsor or on site organizer's representative of an authorized commercially related special event or free expression activity to fail to take reasonable steps to promptly cure any notice of violation of this chapter. It is also unlawful for any participant or spectator to fail to comply with lawful directions issued by any sworn law enforcement officer or by the applicant, sponsor or on site organizer's representative to cure their violation of this chapter.
- C. Clear And Present Danger: If a sworn law enforcement officer determines, after consultation with the chief of police or the chief's designee, that any failure to cure a violation of this chapter creates the clear and present danger of immediate significant harm to life, public safety or property which cannot be reasonably mitigated by increased public safety enforcement and which, on balance, outweighs the constitutionally protected rights of the organizers or participants in the commercially related special event or free expression activity, the applicant, sponsor or on site organizer's representative of the commercially related special event or free expression activity shall be promptly notified that the permit is revoked and that the commercially related special event or free expression activity must immediately cease and desist.
- D. Violation Of Cease And Desist Order: If a permit is revoked as specified in subsection C of this section, it shall be unlawful for any person to fail to obey the order to cease and desist from illegal activities. (Ord. 23-93 § 4, 1993)

3.50.180 Permit-Conflicting Applications:

- A. Conflict Priority Evaluation: When more than one application for a special event or advanced planned free expression activity is received for the same day and time and for conflicting locations or routes, the events administrator shall issue a permit, subject to the other provisions of this chapter, based on the following order of priorities:
 - 1. Events planned, organized or presented by state, federal or city governmental entities or their agents if the governmental request is made in good faith and not with the intent or purpose of improperly chilling constitutionally protected rights of competing applicants;
 - 2. Historic usage commercially related special events or advanced planned free expression activities where the same applicant has been granted use of a particular city forum at a particular date, time, and place for more than three (3) consecutive years;
 - 3. If neither subsection A1 nor A2 of this section are applicable, priority shall be given to a first in time filing.
- B. Consideration For Unsuccessful Applicant: After granting the successful applicant's request for the time, place, manner and date, the events administrator shall authorize the unsuccessful applicant to use an appropriate public forum at another suitable time, place, date and manner. (Ord. 84-03 § 1, 2003; Ord. 23-93 § 4, 1993)

3.50.190 Determination Of Free Expression Activity Exemption Claim:

- A. Initial Determination: Within three (3) days of receipt of a permit application claiming exemption from the commercially related special event requirements as a free expression activity, or such shorter time as may be necessary to allow the activity to proceed, the events coordinator shall determine, in writing, whether the proposed event is a free expression activity, as defined in subsection 3.50.060E of this chapter.
- B. Notification Of City Attorney: If the events coordinator denies the claimed free expression activity exemption, the events coordinator shall immediately notify the city attorney.
- C. Events Review Committee Consideration: Within five (5) business days, or such other shorter time as may be necessary to allow the event to proceed, the events review committee shall consider any denial of a free expression activity exemption, together with any recommendation regarding the exemption provided by the city attorney.
- D. Events Review Committee Determination: Within three (3) business days, or such other shorter period as may be necessary to allow the event to proceed, the events review committee shall issue a decision regarding the claimed exemption and promptly notify the applicant in writing.
- E. Appeals: The applicant may appeal the events review committee's denial of a free expression activity exemption pursuant to the provisions of section 3.50.200 of this chapter. (Ord. 23-93 § 4, 1993)

3.50.200 Regular Appeals-Commercially Related Special Events:

- A. Decisions Appealable: Applicants or sponsors of commercially related special events may appeal the following decisions of the events coordinator or events review committee:
 - 1. The denial of any nonstandard route or location;
 - 2. Any conditions imposed upon the permit; or
 - 3. The limits of any insurance required.
- B. Procedure: Appeals shall be made subject to the following procedure:
 - 1. Appeals shall be filed with the events coordinator within ten (10) business days after the events coordinator notifies the applicant or sponsor of the decision from which an appeal is taken;
 - 2. Notices shall be deemed to be effective:
 - a. On the date on which the applicant or sponsor is personally delivered a copy of the decision, or
 - b. If the decision is mailed, three (3) days after the date of mailing, or
 - c. If notification is sent by electronic facsimile to the applicant, on the date of transmission, provided that a confirmation of the completed facsimile transmission is sent on the same day to the applicant via first class United States mail, postage prepaid;
 - 3. The appeal shall specify the grounds for the appeal;
 - 4. The events coordinator shall respond to the appeal with a written explanation of the events coordinator's reasons for the appealed decision, within seven (7) business days from the receipt of the appeal;
 - 5. The appeal and the events coordinator's response shall be reviewed by the city attorney who shall, within seven (7) business days, issue a recommendation to the mayor;
 - 6. The mayor or the mayor's designee may schedule a hearing on the appeal or review the appeal based on the written submissions;
 - 7. Any hearing shall be held within ten (10) business days following the city attorney's recommendation;
 - 8. The mayor or the mayor's designee shall issue a decision on the appeal, in writing, within ten (10) days from receipt of the city attorney's recommendation or, in the event of a hearing, within ten (10) days from the hearing.
- C. Expedition Of Regular Appeals: If the applicant notifies the events coordinator and demonstrates that the times specified above for the appeals process would unreasonably burden the applicant, the events coordinator shall shorten the times so the applicant may receive the final decision sufficiently in advance of the proposed event. (Ord. 23-93 § 4, 1993)

3.50.210 Expedited Appeals-Free Expression Activities:

- A. Determination On Claims: The following determinations on claims regarding free expression activities may be appealed as provided below:
 - 1. A determination by the events review committee that a proposed event or activity is a commercially related special event and not exempted as a free expression activity;
 - 2. A claim by an applicant that the events review committee's denial of a proposed route or location for an activity constitutes an inappropriate or unlawful restriction of time, place or manner restriction; or
 - 3. Any other claim by an applicant that any action by the city regarding the proposed free expression activity impermissibly burdens constitutionally protected rights of the applicant, sponsor, participants or spectators.
- B. Process: The city acknowledges an obligation to process appeals regarding free expression activities promptly so as to not unreasonably inhibit or unlawfully burden constitutionally protected activities. To the extent possible, the appeals process related to free expression activities shall be that specified in section 3.50.190 of this chapter, with the times modified by the events coordinator to allow the necessary expeditious processing. In the event that an applicant for a free expression activity requires even more expeditious processing of an appeal, upon the request of the applicant, the city attorney may advise the mayor or the mayor's designee to make immediate consideration of the appeal. (Ord. 23-93 § 4, 1993)

3.50.220 Public Conduct During Activity:

- A. Interference With Authorized Event Prohibited: No unauthorized person shall obstruct, impede or interfere with any authorized assembly, person, vehicle or animal participating in an authorized commercially related special event or free expression activity.
- B. Vehicle Parking Restrictions: The mayor or designee shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along streets or highways or parts thereof constituting part of the route of an authorized commercially related special event or free expression activity. The city transportation engineer or

other designated city officer shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. (Ord. 23-93 § 4, 1993)

3.50.230 Distributing Items From Parade Vehicles:

The city council expressly finds that a number of children have been injured as they have run into the streets to gather items distributed from vehicles in a parade, and it is declared unlawful to dispense items, including candy, from vehicles or by participants engaged in commercially related special events or free expression activities within the corporate limits of Salt Lake City; except that individuals walking safely apart from vehicles may hand items directly to spectators. (Ord. 23-93 § 4, 1993)

3.50.240 Regulations For Public Property Adjacent To Event Routes:

The following shall apply to public property adjoining routes and staging areas for authorized commercially related special events or free expression activities and it shall be unlawful for any person to violate these provisions:

- A. **Time Restrictions:** Before eight o'clock (8:00) P.M. of the day before the authorized commercially related special event or free expression activity, no person shall actually claim or attempt to claim, reserve, occupy or otherwise control public property either in person or by the placement of any object. Prohibited claiming activities include, but are not limited to, the placement of ropes, chairs, blankets, banners or vehicles or barriers of any kind.
- B. **Reserving Public Space:** From and after eight o'clock (8:00) P.M. of the day before an authorized commercially related special event or free expression activity, a person may physically occupy a position on public property and may use a blanket, sleeping bag or chair to reserve the position for that person only. No person may reserve a space for anyone other than himself or herself. No person may claim or attempt to reserve any public property for himself or herself or others by placement of ropes, tents, barricades or other barriers.
- C. **Enclosed Shelters Prohibited:** No person shall place, erect, use or employ any tent or other enclosed shelters, including vehicles or trailers, on public property along the route or staging areas of any authorized commercially related special event or free expression activity at any time.
- D. **Obstruction Of Public Rights Of Way:** No person shall obstruct public sidewalks, paved portions of streets, or occupy any unsafe position or occupy a position which may cause damage to public or private property.
- E. **Vehicle Parking Restrictions:** From and after eight o'clock (8:00) P.M. of the day before an authorized commercially related special event or free expression activity and continuing until the conclusion of the event, no person shall park a motor vehicle, or trailer or tent trailer on the streets designated by the city as a route for an authorized commercially related special event or free expression activity. Only motor vehicles or trailers which are entries or parts thereof in an authorized commercially related special event or free expression activity are allowed to be in the areas designated as staging areas. Any vehicle, motor vehicle, trailer or tent trailer parked in violation of this section is a public nuisance and may be towed from the prohibited area at the owner's expense.
- F. **Reserved Spectator Viewing Areas:** As part of the permit process, the mayor or the mayor's designee may authorize:
 1. The city to reserve places for the observation of an authorized commercially related special event or free expression activity and to erect and control seating on such reserved public property; and
 2. The permit holder to reserve areas for observation of an authorized commercially related special event or free expression activity and to erect and control seating in the reserved areas.
- G. **Dogs Prohibited:** From and after eight o'clock (8:00) P.M. of the night before an authorized commercially related special event or free expression activity all dogs, except for service animals and dogs who are actually part of the authorized commercially related special event or free expression activity, shall be prohibited on public property along the route and staging areas whether or not such dogs are leashed. This subsection shall not prohibit the owners of dogs who live adjacent to the route from taking their leashed dogs on walks to and from their property using the most direct route away from the route. "Service animals" referred to in this subsection shall mean any dog specially trained to accompany the blind, hearing impaired, or persons with visual or other physical disabilities. (Ord. 20-06 § 1, 2006; Ord. 63-96 § 1, 1996; Ord. 23-93 § 4, 1993)

3.50.250 Violations:

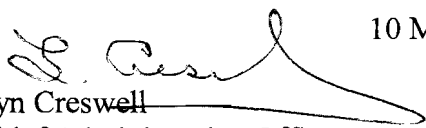
Any person who violates any provision of this chapter is guilty of a class B misdemeanor. (Ord. 23-93 § 4, 1993)

LYN. L. CRESWELL
CHIEF ADMINISTRATIVE OFFICER

SALT LAKE CITY CORPORATION

ROSS C. ANDERSON
MAYOR

10 May 2007


From: Lyn Creswell
Chief Administrative Officer

To: City Council

Subj: Special Events

Attached please find information requested by the Council regarding special events. The Administration is prepared to address this subject in a Council work session or otherwise discuss this with Council members and staff.

Attachment

Copy to:

Rick Graham
Ty McCartney
Steve Fawcett

TO: Lyn Creswell
Chief Administrative Officer

FROM: Richard Graham
Director, Department of Public Services

DATE: May 10, 2007

SUBJECT: *Special Events, Free Expression Activities and Filming Activities*

SUMMARY

The Public Services Department has conducted an analysis of the financial impact of proposed policies relating to the support of special events within the City.

The City is permitting an increasing number of events each year. Many of these events require city services above and beyond basic city services. City departments spent approximately \$542,596 in FY2007 supporting such events, offset by approximately \$70,000 in revenue from application fees, fees for the exclusive use of public space, fees related to concessions agreements, and minimal cost recovery, for a net expense of approximately \$462,762. The Police Department has a General Fund budget for supporting special events of \$221,010, and waived \$16,580 in application fees, which resulted in the net expense to the City to provide support and services to special events in FY07 of \$268,027.

If the City were to formally dispense with cost recovery of any kind, including application fees and rental fees for the exclusive use of public property, it is anticipated that the number of special events permitted per year would increase. In addition, it can be expected that the service level required of the City by these events would increase. The annual expense to the City as a result of this policy decision is estimated to be approximately \$907,676. When offset by the Police Department's annual appropriation for the support of special events, the net expense to the City to provide support and services to special events is estimated to be \$686,666.

If the city were to institute a policy of cost recovery for city services provided above and beyond basic city services, it is anticipated the annual expense to the City would be approximately \$374,815. When offset by the Police Department's annual appropriation for the support of special events, the net expense to the City to provide support and services to special events is estimated to be \$153,805.

This information is being submitted for review and direction from the City Council.

BACKGROUND

A Council audit of the City's special events practices was conducted by Deloitte and Touche in March 2003. In response to the audit report, a thorough evaluation of the City's special events ordinance and processes was conducted by the Public Services, Police, Fire, Management Services, and Community Development Departments.

This process resulted in the following findings and recommendations from administrative staff:

1. Processes and Policies - The special events process needed to be clarified and formalized in ordinance to ensure consistent application of policies, standardize processes, and the most efficient support of events within the City.

Proposed amendments were made to the current ordinance to address these issues. These revisions have not been transmitted to the Council for consideration.

2. Cost Recovery - The City is permitting an increasing number of events each year. Many of these events require additional city services including overtime personnel (police officers and other public safety personnel, as well as parks staff), administrative staff review time, barricading, meter bagging, sports turf protection, garbage/recycling collection, equipment and supplies, and utilities.

City departments spent approximately \$542,596 in FY2007 supporting such events, offset by approximately \$70,000 in revenue from application fees, fees for the exclusive use of public space, fees related to concessions agreements, and minimal cost recovery, for a net expense of approximately \$462,762. The Police Department has a General Fund budget for supporting special events of \$221,010, and waived \$16,580 in application fees, which resulted in the net expense to the City to provide support and services to special events in FY07 of \$268,027.

These services exceed that which would normally be provided as part of "basic city services." Prior to 2004, few other departments or divisions recovered any portion of the costs incurred to support special events, absorbing these costs within their budgets. Ongoing reductions in departmental budgets have restricted the ability of city departments to continue to absorb these increased costs for additional services without impacting service delivery in other areas.

Currently, only the Police Department has a budget for supporting special events, and this budget only represents a portion of actual annual costs incurred by the Police Department. As an enterprise fund, the Refuse Fund had historically charged for the provision of refuse and recycling cans, and the pickup and disposal of event related refuse. The Refuse Fund was not charging the fully loaded cost to provide this service, however, and charges were waived for some events by request.

As part of the 2003 special events policy review process, it was concluded that the increasing numbers and associated demands of special events within the City was creating budgetary impacts that were, in many cases, not being recovered from the event sponsor or otherwise addressed within the annual budget adoption process. Therefore, a proposal was developed for the recovery of costs associated with special events for the provision of services over and above basic city services. It was suggested that costs for additional services required by a special event would be estimated by the events administrator upon receipt of the application for the special event permit, and provided to the applicant for review. Costs incurred for additional services would be billed by the event administrator in a timely manner to the event organizer after the event.

In response to this concern, it was proposed that the City implement a practice of centralized recovery of costs incurred by the City, beyond the provision of basic city services, in order to support special events. Costs for additional services required by a special event would be estimated by the events administrator upon receipt of the application for the special event permit, and provided to the applicant for review. Costs incurred for additional services would be billed by the event administrator in a timely manner to the event organizer after the event.

The administrative departments are aware, however, of the concern that the implementation of a cost recovery policy would discourage event sponsors to hold their events in Salt Lake City, and work against the City's efforts to increase the number and quality of community events in the City.

3. Exclusive Use of Public Property - In response to court cases that prohibit cities from "giving away" public property (or the special use of such property) without receiving fair market value in return (i.e., the "Doug Short" case), staff proposed that events which charge a fee for access to the property/participation in the event, and which are intended to result in a financial gain should be assessed a rental fee.

It was proposed that this fee would be based on a formula developed by the Property Management Division, which considers the value of the property, the area of exclusive use, a reasonable rate of return, and the number of days of exclusive use. The Utah Arts Festival, Utah Hispanic American Festival, and the Boat Show in Liberty Park were each assessed such a rental fee beginning in 2004. Commercially-related events which intend to result in financial gain but do not charge an admission fee to the public would not be assessed this rental fee, as their use of public property does not restrict the enjoyment by the general public of the property.

The administrative departments are aware, however, of the concern that the implementation of a this policy would discourage event sponsors to hold their events in Salt Lake City, and work against the City's efforts to increase the number and quality of community events in the City.

4. Filming - Currently, filming companies are charged \$100.00 for filming in the City regardless of the number of locations filmed. As each location permit requires the City to conduct a complete review, it was determined within the departmental evaluation of the filming program that, as each location requires an individualized review, a \$25 permit should be charged per location.

The administrative departments are aware that these fees may discourage filming companies to continue to utilize Salt Lake City in their productions.

IMPACT OF SPECIAL EVENTS IN SALT LAKE CITY

FISCAL IMPACTS

In 2007, it is estimated that over 200 special events will be permitted within Salt Lake City. Services provided beyond basic city services in order to support these events are estimated as follows:

	Services	Costs estimated in 2007	Cost Recovery in 2007
Police ¹	Public safety support; officer time and equipment	\$248,665	\$0
Streets	Barricades, striping	\$7,301	\$6,000
Refuse	Refuse and recycling collection and disposal	\$15,170	\$7,038
Parks	Staff time, turf protection installation, trash pickup, restroom cleaning, utilities	\$91,312	\$2,800
Parking Enforcement	Staff time to bag meters and patrol event parking	\$58,300	\$0
Fire	Public safety support; staff time and equipment	\$26,453	\$0
Transportation	Staff time to review use of roadways, transportation plans, requests for bagged meters.	\$9,975	\$0
Engineering	Staff time to review applications for use of the public way and to coordinate with utility and construction companies.	\$12,402	\$0
Property Management	Review of rental and concession agreements on public property	\$1,119	\$0
Special Events Admin.	Oversight and coordination of special events (application fees for special events)	\$71,899	\$12,400
	TOTAL	\$542,596	\$28,238
	Offsetting General Fund Police budget for special events support		\$221,010
	Offsetting rental and concession agreement revenue from special events		\$41,901
	Lost offsetting revenue for waived application fees for bagged meters (\$11,180) and special events permits (\$5,400)		(\$16,580)
	NET UNRECOVERED COST TO CITY IN FY07	\$268,027	

¹ Police cost estimates do not include free speech activities, reimbursed projects, funeral escorts, and other miscellaneous escorts and protections.

As the table indicates, in 2007 the City spent approximately \$542,596 in services beyond basic city services to support special events. Only \$28,238 was recovered from the sponsors of these special events for services including:

- Costs for barricades for Farmer's Market,
- Partial refuse collection and disposal costs,
- Partial cleaning and staff costs for some large events in parks, and
- A \$100 permit application fee per event to partially cover administrative and review time (approximately 60 application fees will be waived or not collected).

The total amount expended by City departments was further offset by the \$221,010 appropriated to the Police Department for such services, and by the \$41,901 received in rental fees for the exclusive use of public property for special events and for the concession of alcoholic beverages. Therefore, in 2007, the net amount estimated to be expended by City departments, beyond basic city services, for special events is approximately \$268,027. In addition to this amount is the uncalculated amount of revenue the City loses when parking meters are bagged for special events.

This analysis indicates that over \$268,000 was absorbed within existing General Fund departmental budgets or waived by the City in FY07 to support special events. Doing so is a policy decision that can be substantiated by a commitment on the part of the City to support and encourage special events within Salt Lake City.

A policy decision to eliminate any other fees associated with special events would include the elimination of:

- The current level of cost recovery from city departments including parks, streets, and refuse, for the provision of services above and beyond basic city services;
- All application fees for special events;
- Application fees for free expression activities, as such activities cannot be assessed a burden higher than other events;
- Application fees for filming, as it is likely that this constituency would expect the same concessions;
- Rental fees for the exclusive use of public property (i.e., when a festival fences off public property and charges admission to that property); and
- Concession fees, paid to the City via agreement for selling beverages and other concessions on public property under exclusive use;

It can be assumed that if Salt Lake City were to provide a range of additional services to support special events at no charge to the event sponsor, existing events would have an incentive to allow the City to provide services on their behalf that the event organizers have previously provided through volunteers or other contracts in order to cut costs. For example, many events currently provide their own portable toilets and litter pickup. If the City were to provide these services for free, it can be assumed that many event

sponsors would appreciate and welcome those services. The largest impact of this increase in services required from the City would be in Parks and Refuse. It is anticipated that an increase in the level of services desired from existing events and provided by the City could increase costs to the City by an estimated \$266,500 per year.

In addition, supporting special events at this heightened level of service is likely to provide the desired incentive for additional special events to schedule within Salt Lake City. This increase in the number of new events that are held in the City could result in an estimated additional cost to the City of over \$82,000 for a total annual cost for the City support of special events.

The net fiscal impact to the City of the current special events policy, a no cost recovery policy, and a cost recovery policy is reflected on attached matrix. It should be noted that if the City chose to implement a no cost recovery policy for special events, the Refuse Fund would still be required to recover its costs. This would most likely come from a transfer from the General Fund, and could equal an estimated \$15,000 per year.

Estimated Fiscal Impact to City of Current Special Events Policy, No Cost Recovery Policy, and Cost Recovery Policy

	Current Scenario	No Cost Recovery Policy Scenario	Cost Recovery Policy Scenario
GF resources expended by City Departments	\$542,596	\$542,596	\$542,596
Application Fee Revenue	(\$12,400)	\$0	(\$18,000) ¹
Recovery of Costs Associated with Provision of Additional City Services	(\$15,838)	\$0	(\$132,300) ²
Exclusive Use of Property Fees/Concession Agreement Fees	(\$41,901)	\$0	(\$41,901) ³
Increased Demand for Services		\$266,500 ⁴	\$0 ⁵
Increased Number of Events		\$82,000 ⁶	\$41,000 ⁷
Waived fees (for bagging meters and special events applications)	\$16,580	\$16,580	(\$16,580)
Impact to City	\$489,037	\$907,676	\$374,815
Offset by Current GF Appropriation to the Police Department ⁸	(\$221,010)	(\$221,010)	(\$221,010)
Net Impact to City (Amount to be absorbed within current departmental budgets)	\$268,027	\$686,666	\$153,805

¹ Assumes slight increase in events and therefore application fee revenue.

² Assumes that costs incurred for additional services will be recovered for Streets, Refuse, Parks, and Fire. Police expenses recovered via budget appropriation. Transportation, Property Management and Special Events expenses partially recovered via application fees. Parking Enforcement expenses considered part of general fund efforts.

³ Assumes no increase in events that contain exclusive use of public property.

⁴ Assumes no cost recovery policy would provide incentive for existing event sponsors to seek services from City rather than continue to provide them within their own event budgets/volunteers (i.e., restroom cleaning, litter pickup, recycling cans, refuse cans, barricades, etc.).

⁵ Assumes cost recovery policy would keep demand for services at current levels.

⁶ Assumes no cost recovery policy would encourage more events within the city.

⁷ Assumes increase in events would be less than anticipated if all services were provided free of charge.

⁸ Assumes this annual appropriation would remain at current levels.

OTHER IMPACTS

On a non-fiscal level, the potential impacts of eliminating cost recovery and associated fees for special events, thereby encouraging additional events within the City could include:

- Competition with existing community and City-sponsored events, and a resulting saturation point at which each event gets a smaller “share” of the potential attending public.
- Decreased quality of events (as the financial barrier to producing events is relieved, the City might experience an increase in events with less professional production).
- Saturation of existing staff levels to support special events (i.e., the number of off duty police officers available to support 5+ events in one day).
- Reduction in current service levels as staff time is increasingly allocated to supporting special events, and other activities are given a lower priority (i.e., parks staff increasing hours worked to support special events, and reducing hours spent maintaining parks).
- Reduction in the accountability among event sponsors resulting from the elimination of application fees and cost recovery (application fees currently increase the ability of the City to engage committed, professional event producers; this level of production ensures that the event will be produced as planned and not canceled with little notice to the City and other potential event sponsors, and that services requested are needed and fully utilized).
- A possible increase in the number of events that would chose to fence off their events on public property, creating exclusive use of public space with questionable return to the general public for the use of that City asset. The City would be less able to control such use if fees were not in place.
- A likely increase in the level of services desired by special events from City departments. Currently, most event sponsors provide many of their own services via contract for volunteers to reduce the costs to their event. If the City had a policy in place that City services could be provided to events at no charge, even those above and beyond basic city services, it is likely that the City would see a market increase in the demand for these services. Without a cost recovery policy in place, the City might wish to define what services could be provided and at what level in order to limit its exposure and protect operating resources.
- A likely increase in the use of public spaces. While desirable to the City, at some point the City’s physical assets would need to be protected, either by limiting their use or by increasing the budget appropriated by the City for the repair/replacement of parks and other physical assets.

LEGAL CONCERNS

The City began assessing fees for the rental of public property when events started fencing off public property and charging admission fees. In response to court cases that prohibit cities from “giving away” public property (or the special use of such property) without receiving fair market value in return (i.e., the “Doug Short” case), staff proposed that events which charge a fee for access to the property/participation in the event, and which are intended to result in a financial gain should be assessed a rental fee.

The Attorney’s Office was consulted to ascertain whether the City has a viable reason for allowing exclusive use of public property without commensurate value received in return. The opinion of the Attorney’s Office is summarized below:

Utah Code § 10-8-2 contains procedures for dealing with the Doug Short case (which generally prohibits cities from giving away property unless they get fair market value in return). That section requires cities to conduct a study and hold a public hearing before giving away property. This study must be conducted on a project by project basis.

§ 10-8-2 allows a city to waive fees or provide city services or other non-monetary assistance to a non-profit entity without complying with the fair market value and study requirements. However, that favored treatment of non-profits can be problematic when the fee waiver or assistance relates to activities protected by the First Amendment. In the realm of free expression, courts carefully scrutinize classifications that treat one class of speakers more favorably than others. The Attorney’s Office has identified five free speech cases dealing with disparate treatment of for-profit and non-profit entities, and in each case the court struck down the regulation.

Therefore, unless the City can identify a good justification for favoring non-profit sponsors of special events and speech events (e.g., identify a problem that for-profits cause that non-profits don’t), the City will be subject to legal challenge if it treats non-profits and for-profits differently in special event cases.

The City could comply with the study and FMV aspects of § 10-8-2 even in the case of events sponsored by non-profit entities, but to lessen the administrative burden, it may be able to do some advance studies that apply to *classes* of events. For example, the City might conclude that virtually all free expression activities provide intangible benefits to the City (such as providing a robust environment for political discussion and other speech activities).

The City may wish to consider the findings of the Attorney’s Office prior to finalizing its proposal regarding the assessment of rental fees for the exclusive use of public property.