
M E M O R A N D U M

DATE: May 29, 2008
TO: City Council Members
FROM: Russell Weeks
RE: Ordinance: Extending Hours at Pioneer Park
CC: Cindy Gust-Jenson, David Everitt, Lyn Creswell, Esther Hunter, Ed Rutan, Rick Graham, Chris Burbank, DJ Baxter, Mary De La Mare-Schaefer, Jennifer Bruno, Kevin Bergstrom, Val Pope, Boyd Ferguson, Talitha Day

This memorandum pertains to a proposed ordinance that would extend hours in which people must leave Pioneer Park to 11 p.m. during summer months instead of one-half hour after sunset. The proposed ordinance also provides for extending hours when the park is used for commercially related special events and free expression activities when the summer hours end. The item is scheduled for a briefing and formal City Council consideration on June 3. The Administration earlier requested that the City Council take action on the proposed ordinance before a June 14 event marking the reopening of the park to public use.

OPTIONS

- Adopt the proposed ordinance.
- Do not adopt the proposed ordinance.
- Amend the proposed ordinance.

POTENTIAL MOTIONS

- I move the City Council adopt the ordinance amending Section 15.08.020 of the Salt Lake City Code relating to park and playground hours.
- I move that the City Council consider the next item on the agenda.
- I move the City Council adopt the ordinance amending Section 15.08.020 of the Salt Lake City Code relating to park and playground hours with the following amendments: (Council Members may use this motion for any amendment they may wish to make).

KEY POINTS

- The proposed ordinance has been revised to reflect the direction the City Council gave at a May 20 briefing.
- At the May 20 briefing Police Chief Chris Burbank indicated that he preferred a extending park hours to 11 p.m. during the summer and returning to a curfew of one half hour after sunset in the winter.

- Parks Division Manager Val Pope suggested the extended hours during the summer match the months people reserve spaces in City Parks – May 1 to September 30.
- The proposed ordinance also retains an exception for special events during winter months – October 1 to April 30.
- The proposed ordinance appears to have two long-range effects:
 - Helping make Pioneer Park eventually a venue where residents city-wide can go for a full spectrum of public activities that make the park inviting to all but uninviting to criminals.
 - Making Pioneer Park a venue for commercially related special events and free speech activities that either will complement or compete with similar sites downtown.

ISSUES/QUESTIONS FOR CONSIDERATION

- Making Pioneer Park a public space as safe as other City parks has been a long-term goal.
- Some public events, notably the Farmers’ Market – scheduled to open this year on June 14 – have been held at Pioneer Park for several years.
- According to the Administration’s transmittal letter, the City shortened the hours the park was open in the mid-1990s “as a public safety control measure targeted at closing down illegal activity ... in and around the perimeter of the park.”¹
- The City shortened the hours in part because there was “little or no constructive public use, such as events or community activity” occurring in the park at night or on weekends, according to the Administration.
- The Administration is proposing the ordinance because the community around the park would like to celebrate recent City improvements to the park, and residents and businesses would like to “use the park and sponsor events,” according to the Administration transmittal.
- The proposal plus the City Council discussion about charges for commercially related special events raise the following questions:
 - How would using Pioneer Park mesh with the use of other downtown public spaces for commercially related special events?
 - Are there organizations interested in using Pioneer Park as a venue for new commercially related special events?
 - What events might be held there?
 - Given City Council concerns about commercially related special events enhancing downtown economic development, should the City consider consolidating, coordinating, and possibly marketing the programming of events at Pioneer Park, the Gallivan Center, Washington Square and Library Square – or is there a mechanism in place now that does that?

BACKGROUND/DISCUSSION

The Administration originally requested that the City Council act on the proposed ordinance before June 14 because, according to the transmittal, an event sponsored by residents around Pioneer Park “has been permitted” for June 14. The event

is expected to run beyond the current curfew of one-half hour after sunset. The curfew is in Section 15.08.020 titled, *Park Hours – Designated*.

The section, with the new proposed amendment, reads:

Pioneer park, which shall be closed to the public: (a) from May 1 through September 30, between the hours of eleven o'clock (11:00) P.M. and five o'clock (5:00) A.M. the following morning; and (b) from October 1 through April 30, between one-half (1/2) hour after sunset to seven o'clock (7:00) A.M. the following morning, except that in connection with events or activities at Pioneer park for which a permit has been issued under Chapter 3.50, the Director of Public Services, or his or her designee, shall, at the request of the sponsor of such event or activity, allow Pioneer park to remain open until eleven o'clock (11:00) P.M. for not to exceed three consecutive days during which the event or activity is occurring;

According to the Administration transmittal, the proposed amendment also was requested because “the community and its commercial business partners desire to use the park and sponsor events. The transmittal noted that no formal presentation had been made to the Downtown Community Council, but e-mail correspondence to the City Council indicates support for the amendment as proposed.

At the May 20 briefing Police Chief Chris Burbank said he preferred a permanent extension of the curfew to 11 p.m. (the standard closing time for most City parks) or extending the curfew to 11 p.m. through the summer and a return to one-half hour after sunset in the winter when commercially related special events are less likely to be held.

Chief Burbank said extending the curfew either way would make it clearer to park users when they could and when they could not stay later in the park. The clarity would allow for consistent enforcement in summer and winter, he said.

In response to City Council questions, the Chief said there is a potential for law enforcement problems to arise, but extending the hours was worth the risk. Parks Division Manager Val Pope then suggested that if the hours were to be extended for the summer months, they should match the months in which people reserve spaces in City parks. According to the Parks Division Internet web site, reservations run from May 1 to September 30. However, City Council discussion also supported keeping an exception for special events during months not covered by the May 1 to September 30 time period. The proposed ordinance has been revised to reflect that.

The City has spent about \$1.5 million in improvements to the park. Improvements include: irrigation and electrical upgrades, new interior sidewalks, a walking and jogging path of crushed gravel, removing older trees, planting new trees, and installing a fenced dog park. Some improvements at the north end of the park are designed to help farmers and merchants at the Farmers’ Market sponsored by The Downtown Alliance.²

Improving the park has been one of the City’s long-range goals as part of neighborhood and commercial development of the west downtown. The City has made, designed and studied improvements to the park over the last 15 years to make it a park to match its historical significance and usefulness as downtown green space.

The City also has made several attempts to enforce laws prohibiting the sale of illegal drugs and other illegal acts in and around the park. Last December, the City Council repealed an ordinance that in effect prevented law enforcement agencies from charging people who solicit illegal drugs in the City with a third-degree felony. Repealing the ordinance partially was the result of scores of arrests in and around Pioneer Park in November.³

The City Council enacted the curfew in the mid-1990s in response to similar incidents at Pioneer Park. However, as the Administration transmittal notes, the area around the park has developed significantly since then.

The proposed ordinance to extend the curfew for commercially related special events also raises an issue that has interested the City Council for a number of years. The Council, at its May 13 meeting, voiced interest in determining the economic effect of holding commercially related special events downtown and whether charging fees listed in City ordinances might cause commercially related special events to go to other cities. Previous Councils have at times discussed the effect a new venue for commercially related special events would have on other public venues downtown. In addition, City policies support making the downtown – and the City – a focal point of cultural events region-wide. Given that, the City Council may wish to explore how the City coordinates allocating and programming public venues for commercially related special events and whether it might be worthwhile to coordinate, program, and promote downtown venues for commercially related special events.

¹ A 1995 City Council staff memorandum cited Police Department estimates that police officers made about 400 drug sales arrests city-wide in 1994. Two areas roughly bordered by South Temple, Main Street, 400 South and 800 West accounted for 68 percent of the arrests.

² Please see attached graphic.

³ Please see attached memorandum.

MAY 29 2008

SALT LAKE CITY ORDINANCE
No. _____ of 2008
(Park Hours)

AN ORDINANCE AMENDING SECTION 15.08.020 OF THE SALT LAKE CITY CODE, RELATING TO PARK AND PLAYGROUND HOURS.

Be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. That Section 15.08.020 of the Salt Lake City Code, relating to park and playground closing hours be, and the same hereby is, amended as follows:

15.08.020 Park Hours-Designated:

A. All public parks and playgrounds of the city shall be closed to the public between the hours of eleven o'clock (11:00) P.M. and five o'clock (5:00) A.M. the following morning, with the exception of:

1. Charles Lee Miller park, which shall be closed to the public between the hours of nine o'clock (9:00) P.M. and five o'clock (5:00) A.M. the following morning;

2. Pioneer park, which shall be closed to the public: (a) from May 1 through September 30, between the hours of eleven o'clock (11:00) P.M. and five o'clock (5:00) A.M. the following morning; and (b) from October 1 through April 30, between one-half (1/2) hour after sunset to seven o'clock (7:00) A.M. the following morning, except that in connection with events or activities at Pioneer park for which a permit has been issued under Chapter 3.50, the Director of Public Services, or his or her designee, shall, at the request of the sponsor of such event or activity, allow Pioneer park to remain open until eleven o'clock (11:00) P.M. for not to exceed three consecutive days during which the event or activity is occurring;

3. Donner Trail Park, which shall be closed to the public between the hours of ten o'clock (10:00) P.M. and five o'clock (5:00) A.M. the following morning; and

4. With the exception of City Creek park, which shall be closed to the public between the hours of eleven o'clock (11:00) P.M. and five o'clock (5:00) A.M. the following morning, all public parks and playgrounds of the city five (5) acres or less in size, whether or not specifically named or described in this title, which shall be closed to the public between the hours of ten o'clock (10:00) P.M. and five o'clock (5:00) A.M. the following morning.

B. The Memorial House in Memory Grove shall be closed to public use at twelve o'clock (12:00) midnight; outdoor activities on the leased south lawn shall be closed at eleven thirty o'clock (11:30) P.M.; and the Memorial House shall be locked and vacant no later than two o'clock (2:00) A.M. Between twelve o'clock (12:00) midnight and two o'clock (2:00) A.M., use of the Memorial House shall be limited to employees cleaning the premises after an activity.

C. No person or persons shall be permitted in said parks or playgrounds, either on foot or on or in any type of vehicle, during such hours unless for the express purpose of traveling directly through the park or playground on a public street that passes through the park or playground.

SECTION 2. That this ordinance shall take effect immediately upon the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this _____ day of _____, 2008.

CHAIRPERSON

ATTEST:

CHIEF DEPUTY CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

CHIEF DEPUTY CITY RECORDER

(SEAL)

Bill No. _____ of 2008.
Published: _____.

APPROVED AS TO FORM
Salt Lake City Attorney's Office
Date 5-28-08
By [Signature]

1



M E M O R A N D U M

DATE: May 16, 2008
TO: City Council Members
FROM: Russell Weeks
RE: Ordinance: Extending Hours at Pioneer Park for Special Events
CC: Cindy Gust-Jenson, David Everitt, Lyn Creswell, Esther Hunter, Rick Graham, Chris Burbank, DJ Baxter, Mary De La Mare-Schaefer, Jennifer Bruno, Kevin Bergstrom, Val Pope, Patty Jarvis, Talitha Day

This memorandum pertains to a proposed ordinance that would extend hours at Pioneer Park to 11 p.m. instead of one-half hour after sunset when the park is used for commercially related special events and free expression activities. The item is scheduled for a briefing May 20. The Administration requests that the City Council take action on the proposed ordinance before an event marking the reopening of the park to public use occurs June 14.

OPTIONS

- Adopt the proposed ordinance.
- Do not adopt the proposed ordinance.
- Amend the proposed ordinance.

POTENTIAL MOTIONS

- I move the City Council adopt the ordinance amending Section 15.08.020 of the Salt Lake City Code relating to park and playground hours.
- I move that the City Council consider the next item on the agenda.
- I move the City Council adopt the ordinance amending Section 15.08.020 of the Salt Lake City Code relating to park and playground hours with the following amendments: (Council Members may use this motion for any amendment they may wish to make).

KEY POINTS

- The proposed ordinance appears to have an immediate goal of extending hours at the park for an event on June 14.
- The June 14 event is in part a celebration of about \$1.5 million worth of City improvements to Pioneer Park.
- Police Chief Chris Burbank indicates that he would prefer a permanent extension of the curfew to 11 p.m. or extending the curfew to 11 p.m. through the summer and a return to one-half hour after sunset in the winter.

- The proposed ordinance appears to have two long-range effects:
 - Helping make Pioneer Park eventually a venue where residents city-wide can go for a full spectrum of public activities that make the park inviting to all but uninviting to criminals.
 - Making Pioneer Park a venue for commercially related special events and free speech activities that either will complement or compete with similar sites downtown.

ISSUES/QUESTIONS FOR CONSIDERATION

- Making Pioneer Park a public space as safe as other City parks has been a long-term goal.
- Some public events, notably the Farmers’ Market – scheduled to open this year on June 14 – have been held at Pioneer Park for several years.
- According to the Administration’s transmittal letter, the City shortened the hours the park was open in the mid-1990s “as a public safety control measure targeted at closing down illegal activity ... in and around the perimeter of the park.”¹
- The City shortened the hours in part because there was “little or no constructive public use, such as events or community activity” occurring in the park at night or on weekends, according to the Administration.
- The Administration is proposing the ordinance because the community around the park would like to celebrate recent City improvements to the park, and residents and businesses would like to “use the park and sponsor events,” according to the Administration transmittal.
- Police Chief Burbank indicates he prefers a permanent extension of the curfew to 11 p.m. or extending the curfew to 11 p.m. through the summer and a return to one-half hour after sunset in the winter because changing curfew hours based on events is too specialized for enforcement purposes.
- The proposal plus the City Council discussion about charges for commercially related special events raise the following questions:
 - How would using Pioneer Park mesh with the use of other downtown public spaces for commercially related special events?
 - Are there organizations interested in using Pioneer Park as a venue for new commercially related special events?
 - What events might be held there?
 - Given City Council concerns about commercially related special events enhancing downtown economic development, should the City consider consolidating, coordinating, and possibly marketing the programming of events at Pioneer Park, the Gallivan Center, Washington Square and Library Square – or is there a mechanism in place now that does that?

BACKGROUND/DISCUSSION

The Administration has requested that the City Council act on the proposed ordinance before June 14 because, according to the transmittal, an event sponsored by residents around Pioneer Park “has been permitted” for June 14. The event is expected to run beyond the current curfew of one-half hour after sunset. The curfew is in Section 15.08.020 titled, *Park Hours – Designated*.

The section, with the proposed amendment, reads:

Pioneer Park, which shall be closed to the public between one-half (1/2) hour after sunset to seven o'clock (7:00) A.M. the following morning; however, in connection with events or activities at Pioneer Park for which a permit has been issued under Chapter 3.50, the Director of Public Services, or his or her designee, shall, at the request of the sponsor of such event or activity, allow Pioneer Park to remain open until eleven o'clock (11:00) P.M. for not to exceed three consecutive days during which the event or activity is occurring:

According to the transmittal, the proposed amendment also is requested because “the community and its commercial business partners desire to use the park and sponsor events. The transmittal notes that no formal presentation has been made to the Downtown Community Council, but e-mail correspondence to the City Council indicates support for the amendment as proposed.

It should be noted that Police Chief Chris Burbank indicates that he prefers a permanent extension of the curfew to 11 p.m. (the standard closing time for most City parks) or extending the curfew to 11 p.m. through the summer and a return to one-half hour after sunset in the winter when commercially related special events are less likely to be held. Chief Burbank indicated he was concerned that the proposed language would make it difficult for consistent enforcement and for the public to understand when a one-half hour after sunset curfew would be in place and when it would not be in place.

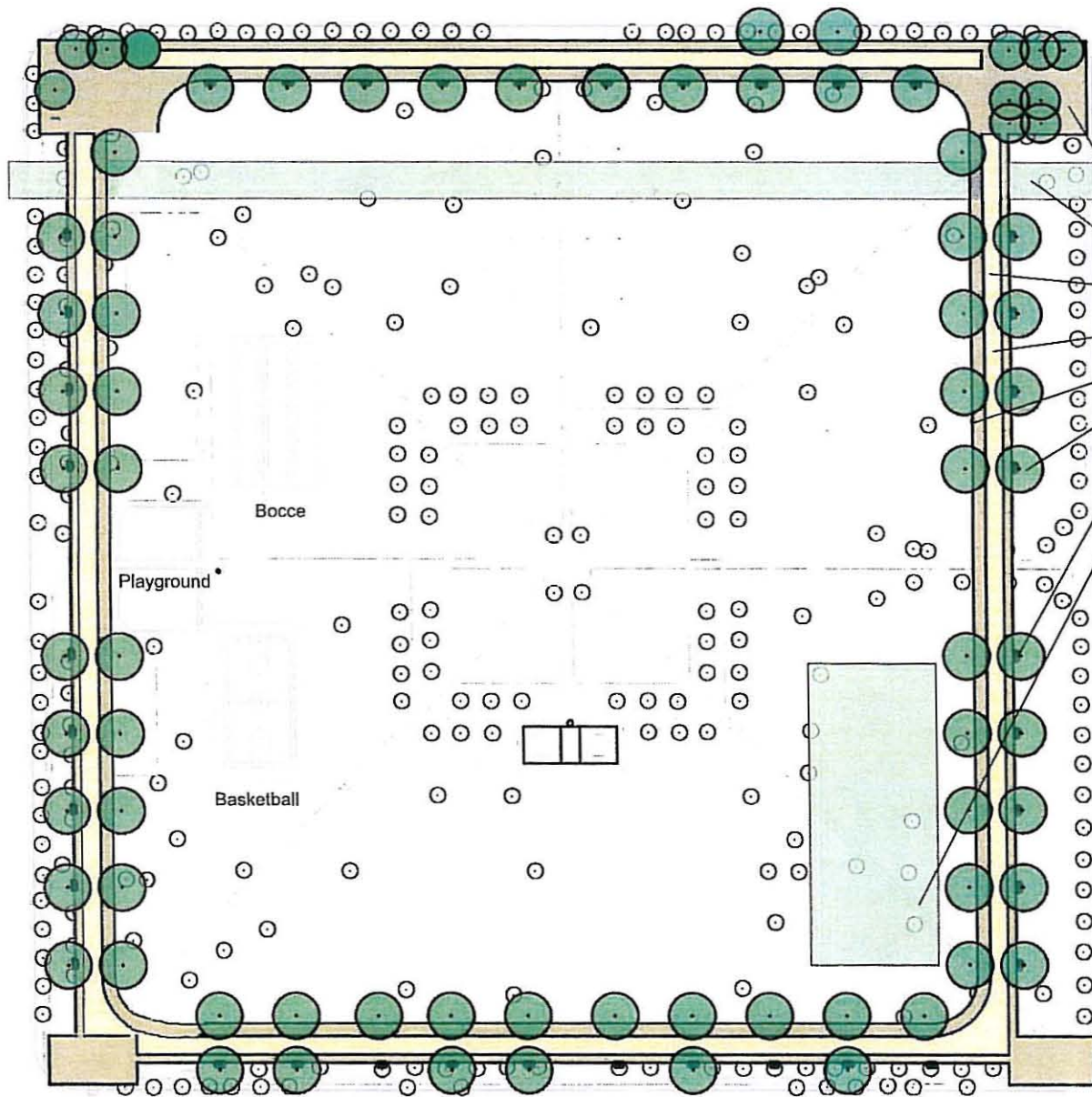
The City has spent about \$1.5 million in improvements to the park. Improvements include: irrigation and electrical upgrades, new interior sidewalks, a walking and jogging path of crushed gravel, removing older trees, planting new trees, and installing a fenced dog park. Some improvements at the north end of the park are designed to help farmers and merchants at the Farmers’ Market sponsored by The Downtown Alliance.²

Improving the park has been one of the City’s long-range goals as part of neighborhood and commercial development of the west downtown. The City has made, designed and studied improvements to the park over the last 15 years to make it a park to match its historical significance and usefulness as downtown green space.

The City also has made several attempts to enforce laws prohibiting the sale of illegal drugs and other illegal acts in and around the park. Last December, the City Council repealed an ordinance that in effect prevented law enforcement agencies from charging people who solicit illegal drugs in the City with a third-degree felony. Repealing the ordinance partially was the result of scores of arrests in and around Pioneer Park in November.³

The City Council enacted the curfew in the mid-1990s in response to similar incidents at Pioneer Park. However, as the Administration transmittal notes, the area around the park has developed significantly since then.

The proposed ordinance to extend the curfew for commercially related special events also raises an issue that has interested the City Council for a number of years. The Council, at its May 13 meeting, voiced interest in determining the economic effect of holding commercially related special events downtown and whether charging fees listed in



STAGE I:
Building on Success

- Entry Plazas
- Farmers Market Access
- Promenade
- Decomposed Granite Pathway
- Concrete Sidewalks
- Trees
- Benches
- Dog Park

City ordinances might cause commercially related special events to go to other cities. Previous Councils have at times discussed the effect a new venue for commercially related special events would have on other public venues downtown. In addition, City policies support making the downtown – and the City – a focal point of cultural events region-wide. Given that, the City Council may wish to explore how the City coordinates allocating and programming public venues for commercially related special events and whether it might be worthwhile to coordinate, program, and promote downtown venues for commercially related special events.

¹ A 1995 City Council staff memorandum cited Police Department estimates that police officers made about 400 drug sales arrests city-wide in 1994. Two areas roughly bordered by South Temple, Main Street, 400 South and 800 West accounted for 68 percent of the arrests.

² Please see attached graphic.

³ Please see attached memorandum.

M E M O R A N D U M

DATE: November 30, 2007
TO: City Council Members
FROM: Russell Weeks
RE: Proposed Ordinance to Repeal an Ordinance Prohibiting the Solicitation of People to Sell Controlled Substances to conform *City Code* to *Utah Code*.
CC: Cindy Gust-Jenson, Lyn Creswell, Sam Guevara, Ed Rutan, Chris Burbank, Jennifer Bruno, Ken W. Pearce, Martha Stonebrook

Nothing in this memorandum purports to be a legal opinion.

This memorandum pertains to a proposed ordinance that would repeal Salt Lake City Ordinance 11.12.100 titled *Solicitation Of Person(s) With Intent To Have Another Commit An Offense Specified In Section 58-37-8, Utah Code Annotated*. The ordinance reads in part, "It is unlawful for any person to request, or solicit a controlled substance, or controlled substance precursor from another person, except as permitted by the Utah controlled substances act, section 63-37-1 et seq., *Utah Code Annotated*, or its successor." The penalty for violating the ordinance is a Class B misdemeanor. The Administration proposes to repeal Ordinance 11.12.100 because the ordinance limits the level of penalties for violating it to a Class B misdemeanor. The Administration contends that harsher penalties in state law for the same violations would be a more effective law enforcement tool.

The proposed ordinance is scheduled for a briefing at the City Council's work session December 4. The item also is scheduled for the Council's formal consideration the same night.

OPTIONS

- Adopt the proposed ordinance.
- Do not adopt the proposed ordinance.
- Postpone formal action on the proposed ordinance, if the City Council has any questions.

MOTIONS

- I move that the City Council adopt an ordinance repealing Section 11.12.100 of the Salt Lake City Code relating to the solicitation of person(s) with intent to have another commit an offense specified in Section 58-37-8 *Utah Code Annotated*.
- I move that the City Council consider the next item on the agenda.
- I move that the City Council consider this item at a later date. (Council Members may specify a date, if they wish to discuss the item more or seek more information.)

KEY POINTS

- The proposed ordinance would repeal *City Code* Section 11.12.100 that was adopted in 1995 with the intent to curb the sales of illegal drugs by targeting people who sought to purchase drugs.¹
- According to the Administration, the Class B misdemeanor penalty in *City Code* Section 11.12.100 is a penalty for illegal acts also prohibited in *Utah Code Annotated* Sections 58-37-8, 76-4-203 and 76-4-101.²
- The state laws carry harsher penalties for convictions of violating them, and the Administration contends that the harsher penalties would be more effective law enforcement tools.
- State laws that would replace *City Code* Section 11.12.100 also carry enhanced penalties for convictions of illegal activities taking place in a variety of public areas including parks.
- According to the Administration, a Utah Supreme Court ruling in 1969 holds that “when two statutory provisions define the same offense, a defendant must be sentenced under the provision carrying the lesser penalty.”³
- Under Utah law the following penalties apply to convictions for felonies and misdemeanors:
 - **First-degree felony:** Prison term of five years to life, maximum \$10,000 fine or both.
 - **Second-degree felony:** Prison term of one to 15 years, maximum \$10,000 fine or both.
 - **Third-degree felony:** Prison term of zero to five years, maximum \$5,000 fine or both.
 - **Class A misdemeanor:** Jail term of zero to one year, maximum \$2,500 fine or both.
 - **Class B misdemeanor:** Jail term of zero to 180 days, maximum \$1,000 fine or both.
 - **Class C misdemeanor:** Jail term of zero to 90 days, maximum \$2,500 fine or both.
- Just as Section 11.12.100 applies city-wide, the state laws that would replace it would apply city-wide.

MATTERS AT ISSUE/QUESTIONS FOR CONSIDERATION

- According to the Administration, the repeal of the Section 11.12.100 would have had an effect on the incarceration and prosecution of people arrested in the 49-block sweep of downtown Salt Lake City during the week of November 4 through 9.⁴
- State law prohibits municipalities from imposing criminal penalties in excess of a Class B misdemeanor.⁵
- If Section 11.12.100 is repealed, would the punishments for convictions of the state laws that would replace it fit the crimes?

BACKGROUND/DISCUSSION

The City Council unanimously adopted Section 11.12.100 on July 11, 1995, after a briefing five days earlier. The intent of the ordinance then was to disrupt the market for illegal drugs by targeting buyers. The intent also was to target “recreational” drug users in a manner similar to using decoys to arrest people who sought out prostitutes.⁶

The Administration proposes to repeal the Section because it contends that Utah law covers convictions of the same illegal activity but carries higher penalties. Again, the Administration contends that a 1969 Utah Supreme Court ruling holds that “when two statutory provisions define the same offense, a defendant must be sentenced under the provision carrying the lesser penalty.” The Administration also contends in the transmittal letter that, “In today’s drug world, a Class B misdemeanor has little, if any, deterrent effect.”⁷

The Administration notes, “The Salt Lake City Prosecutor and the District Attorney also favor the repeal of City Code 11.12.100. By removing the effect of the *Shondel* doctrine (the 1969 Utah Supreme Court ruling), prosecutions can move forward with charges that carry stiffer penalties. This will have a much greater potential for decreasing drug crimes in the city.”⁸

Briefly:

Utah Code Section 58-37-8(1)(a)(ii) makes it unlawful “for any person to knowingly and intentionally distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance.”⁹ Penalties vary depending on the kind and amount of controlled or counterfeit substance involved in the arrest of someone convicted of breaking the law. However, the penalties range from second-degree felonies to Class A misdemeanors.

Utah Code Section 76-4-203 makes a person guilty of criminal solicitation if “with intent that a felony be committed, he solicits, requests, commands, offers to hire, or importunes another person to engage in specific conduct that ... would be a felony or would cause the other person to be a party to the commission of a felony.”¹⁰ Generally, penalties involving controlled substances again range from second-degree felonies to Class A misdemeanors.

Utah Code Section 58-37-8(2) makes it unlawful “for any person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance...”¹¹

The penalties for violating the provision are:

- (1) a second degree felony if the substance is marijuana in an amount greater than 100 pounds;
- (2) a third degree felony if the substance is a Schedule I or II substance or marijuana in an amount less than 100 pounds but more than 16 ounces; or
- (3) a class A misdemeanor if the substance is marijuana in an amount less than 16 ounces.

Utah Code 76-4-101 makes it a crime to attempt to commit a crime. A person is guilty of an attempt if he engages in conduct constituting a “substantial step” (defined as conduct “strongly corroborating the actor's mental state”) toward the commission of the crime and intends to commit the crime. The penalties for an attempt to commit a crime are one degree less than the penalty for the actual crime.¹²

The Administration also notes that *Utah Code Annotated* Section 58-37-8(4) contains provisions that enhance the penalties for convictions of illegal drug activities that occur: “

- (i) in a public or private elementary or secondary school or on the grounds of any of those schools;
- (ii) in a public or private vocational school or postsecondary institution or on the

grounds of any of those schools or institutions;

(iii) in those portions of any building, park, stadium, or other structure or grounds which are, at the time of the act, being used for an activity sponsored by or through a school or institution under Subsections (4)(a)(i) and (ii);

(iv) in or on the grounds of a preschool or child-care facility;

(v) in a public park, amusement park, arcade, or recreation center;

(vi) in or on the grounds of a house of worship as defined in Section 76-10-501;

(vii) in a shopping mall, sports facility, stadium, arena, theater, movie house, playhouse, or parking lot or structure adjacent thereto;

(viii) in or on the grounds of a library;

(ix) within any area that is within 1,000 feet of any structure, facility, or grounds included in Subsections (4)(a)(i), (ii), (iv), (vi), and (vii).

It is conceivable, then, that someone convicted of attempting to commit a crime under Utah Code 76-4-101 involving controlled substances and who received a penalty one degree less than the actual crime would have the lessened penalty increased under enhancements prescribed for attempting to commit a crime in an area listed in Section 58-37-8(4).

Finally, the Administration contends that had state law been in effect during an early November 49-block sweep of people involved in the sale or purchase of illegal drugs, the effect of the sweep would have been greater.

According to *The Salt Lake Tribune*, "Undercover police officers purchased drugs from small-time dealers in a 49-block area from State Street to 600 West and North Temple to 600 South. As dealers were taken off the street, officers took their places and focused on buyers."

The net result of the sweep was a total of 946 arrests, according to the *Deseret News*. Of that number, 87 were arrested on drug distribution and 165 were arrested on drug solicitation charges. According to the Administration, the 165 people were issued Class B misdemeanor citations under City Code 11.12.100.

"If the ordinance had been repealed, the same 165 individuals would have been charged with either a Class A misdemeanor for attempted possession or a third-degree felony for criminal solicitation, and all of the 165 individuals would have been arrested and taken to jail. Additionally, if the criminal enhancement had been available ... charges for attempted possession occurring within Pioneer Park would have increased to third-degree felonies, and the charges for criminal solicitation occurring with Pioneer Park would have increased to second-degree felonies," according to the Administration.¹³

Although one after-effect of the sweep was the highlighting of the apparent lack of capacity of the Salt Lake County Jail, the penalties for felony convictions are markedly higher than for Class B misdemeanors.

¹ Please see attached City Council meeting minutes from July 11, 1995, and staff report dated June 30, 1995.

² Please see attached memorandum from Senior City Attorney Martha S. Stonebrook.

³ Transmittal letter to City Council, Page 1.

⁴ Memorandum from Senior City Attorney Martha S. Stonebrook.

⁵ Ibid.

⁶ City Council meeting minutes from July 11, 1995, and staff report dated June 30, 1995.

⁷ Transmittal letter, Page 2.

⁸ Ibid.

⁹ Memorandum from Senior City Attorney Martha S. Stonebrook.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

MAY 07 2008

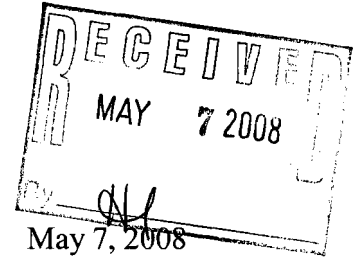
RICHARD GRAHAM
PUBLIC SERVICES DIRECTOR

SALT LAKE CITY CORPORATION

DEPARTMENT OF PUBLIC SERVICES
DIRECTORS OFFICE

RALPH BECKER
MAYOR

COUNCIL TRANSMITTAL



TO: David Everitt
Chief of Staff

DATE: May 7, 2008

FROM: Rick Graham, Director
Public Services Department

SUBJECT: Park Use Hours – Pioneer Park

STAFF CONTACT: Rick Graham 535-7774
Val Pope 972-7800

DOCUMENT TYPE: Ordinance Amendment – City Code 15.08.020

RECOMMENDATION: That the City Council approve an ordinance amendment that would allow the Director of Public Services, or his or her designee, to allow Pioneer Park to remain open until eleven o'clock (11:00) P.M. for a period not to exceed three consecutive days when a permitted event issued under Chapter 3.50 is occurring.

BUDGET IMPACT: None

BACKGROUND/DISCUSSION: City Code directs that Pioneer Park shall be closed to the public between one-half (1/2) hour after sunset to seven o'clock (7:00) A.M. the following morning. All other City parks the size of Pioneer Park are closed to public use between the hours of eleven o'clock (11:00) P.M. and five o'clock (5:00) A.M. the following morning. The earlier close time was instituted in the mid-1990s as a public safety control measure targeted at closing down illegal activity that was occurring in and around the perimeter of the park. A factor that was considered at the time of the use period change, was that little to no constructive public use, such as events or community activity, was occurring at the park in the evenings or on weekends. Consequently, a change of use hours would not curtail the allowance of events.

A change to the use hours is now desired because the City has pumped \$1.5 million in capital improvements into the park for the purpose of activating public use. Also, since the 1990's development around the park has occurred resulting in a stronger, more vital residential and commercial base. The community and its commercial business partners desire to use the park and sponsor events. Event planning and some public uses would be negatively impacted if park visitors were forced to leave the park one-half hour after sunset.

LOCATION: 451 SOUTH STATE STREET, ROOM 148, SALT LAKE CITY, UTAH 84111-3104

MAILING ADDRESS: PO BOX 145469, SALT LAKE CITY, UTAH 84114-5469

TELEPHONE: 801-535-7775 FAX: 801-535-6175

WWW.SLCCGOV.COM



As a first-step move to support community use of the park as an event site, but still maintain a firm public safety presence in the park when events are not scheduled, the Administration proposes a program that will allow the Director of Public Services, or his or her designee, to allow the park to remain open until eleven o'clock (11:00) P.M. for a not to exceed three consecutive days during which an event that is issued a permit under Section 3.50 of the City Code is occurring. The three day period is proposed because it is likely, based on experience, that an event may be scheduled over a weekend to include Friday, Saturday and Sunday. Outside of the permitted event the current park use hours will remain in place.

This amendment has been reviewed by the Police Department. Chief Burbank indicated that he had no problem with the amendment as long as it would not create a situation by which the police are unable to enforce park curfew during the off-event evenings.

A grand re-opening event, sponsored by the local community residents has been permitted for June 14, 2008. For the event to have full opportunity to be successful the use hours would need to be changed. The Administration asks that the City Council schedule a briefing as quickly as possible so that official action can take place.

PUBLIC PROCESS: No formal presentation has been made to the Downtown Community Council. Email correspondence (see attached) indicates that there is local support for the amendment as proposed.

SALT LAKE CITY ORDINANCE

No. _____ of 2008
(Park Hours)

AN ORDINANCE AMENDING SECTION 15.08.020 OF THE SALT LAKE CITY CODE, RELATING TO PARK AND PLAYGROUND HOURS.

Be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. That Section 15.08.020 of the Salt Lake City Code, relating to park and playground closing hours be, and the same hereby is, amended as follows:

15.08.020 Park Hours-Designated:

A. All public parks and playgrounds of the city shall be closed to the public between the hours of eleven o'clock (11:00) P.M. and five o'clock (5:00) A.M. the following morning, with the exception of:

1. Charles Lee Miller park, which shall be closed to the public between the hours of nine o'clock (9:00) P.M. and five o'clock (5:00) A.M. the following morning;

2. Pioneer park, which shall be closed to the public between one-half (1/2) hour after sunset to seven o'clock (7:00) A.M. the following morning; however, in connection with events or activities at Pioneer park for which a permit has been issued under Chapter 3.50, the Director of Public Services, or his or her designee, shall, at the request of the sponsor of such event or activity, allow Pioneer park to remain open until eleven o'clock (11:00) P.M. for not to exceed three consecutive days during which the event or activity is occurring;

3. Donner Trail Park, which shall be closed to the public between the hours of ten o'clock (10:00) P.M. and five o'clock (5:00) A.M. the following morning; and

4. With the exception of City Creek park, which shall be closed to the public between the hours of eleven o'clock (11:00) P.M. and five o'clock (5:00) A.M. the following morning, all public parks and playgrounds of the city five (5) acres or less in size, whether or not specifically named or described in this title, which shall be closed to the public between the hours of ten o'clock (10:00) P.M. and five o'clock (5:00) A.M. the following morning.

B. The Memorial House in Memory Grove shall be closed to public use at twelve o'clock (12:00) midnight; outdoor activities on the leased south lawn shall be closed at eleven thirty o'clock (11:30) P.M.; and the Memorial House shall be locked and vacant no later than two o'clock (2:00) A.M. Between twelve o'clock (12:00) midnight and two o'clock (2:00) A.M., use of the Memorial House shall be limited to employees cleaning the premises after an activity.

C. No person or persons shall be permitted in said parks or playgrounds, either on foot or on or in any type of vehicle, during such hours unless for the express purpose of traveling directly through the park or playground on a public street that passes through the park or playground.

SECTION 2. That this ordinance shall take effect immediately upon the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this _____ day of _____, 2008.

CHAIRPERSON

ATTEST:

CHIEF DEPUTY CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

CHIEF DEPUTY CITY RECORDER

(SEAL)

Bill No. _____ of 2008.

Published: _____.

APPROVED AS TO FORM
Salt Lake City Attorney's Office
Date 5-6-08
By [Signature]

HB_ATT#3873-v1-Amending_15_08_020_re_park_hours.DOC

SALT LAKE CITY ORDINANCE
No. _____ of 2008
(Park Hours)

AN ORDINANCE AMENDING SECTION 15.08.020 OF THE SALT LAKE CITY CODE, RELATING TO PARK AND PLAYGROUND HOURS.

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4. With the exception of City Creek park, which shall be closed to the public between the hours of eleven o'clock (11:00) P.M. and five o'clock (5:00) A.M. the following morning, all public parks and playgrounds of the city five (5) acres or less in size, whether or not specifically named or described in this title, which shall be closed to the public between the hours of ten o'clock (10:00) P.M. and five o'clock (5:00) A.M. the following morning.

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C. No person or persons shall be permitted in said parks or playgrounds, either on foot or on or in any type of vehicle, during such hours unless for the express purpose of traveling directly through the park or playground on a public street that passes through the park or playground.

SECTION 2. That this ordinance shall take effect immediately upon the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this _____ day of _____, 2008.

CHAIRPERSON

ATTEST:

CHIEF DEPUTY CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

CHIEF DEPUTY CITY RECORDER

(SEAL)

Bill No. _____ of 2008.
Published: _____.

APPROVED AS TO FORM
Salt Lake City Attorney's Office
Date 5-6-08
By Boyd Ferguson

Graham, Rick

From: Mickelle Weber [mickelle.weber@gmail.com]
Sent: Tuesday, April 15, 2008 11:54 AM
To: Garrott, Luke; Christensen, Carlton; Turner, Van; Jergensen, Eric; Love, Jill; Martin, JT; Simonsen, Soren; ralph@slcgov.com
Cc: Graham, Rick; Pope, Val; D Christian Harrison; abigailkjos@gmail.com
Subject: Rick Graham's request for Pioneer Park

Hi Council and Mayor,

I am just writing to let you know that the residents and business owners of District 4 would love to see Rick Graham(Parks Department) request to amend the current ordinance for pioneer park's closing time (from dusk always to allowing the parks department to allow the park to remain open until 11 for up to 3 consecutive days for special events) pass. This will help us tremendously in changing the usage of the park. Not to mention allowing the re grand opening festivities(June 14th) to go on as planned.(you are all invited!)

Thanks!

Mickelle Weber
District 4 Residents and Business Owner

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Mickelle Weber
MK Imagery, LLC
mkimagery.com
801.698.8288