
MEMORANDUM

DATE: October 28, 2009
TO: City Council Members
FROM: Russell Weeks
RE: Resolution: Public Benefit Study and Agreement Pertaining to the Donation of Unclaimed Bicycles Held by the Salt Lake City Police Department
CC: Cindy Gust-Jenson, David Everitt, Ed Rutan, Chief Chris Burbank, Matt Lyon, Jennifer Bruno, Karen Hale, Kay Christensen, Martha Stonebrook, Lisa Harrison-Smith, Patricia Williams

This memorandum pertains to a public benefit study and a proposed agreement between Salt Lake City and the Salt Lake City Bicycle Collection pertaining to the donation of bicycles either abandoned and found or obtained as evidence by the Salt Lake City Police Department.

The items are scheduled for a public hearing November 5 during the City Council's formal meeting. The meeting is scheduled to start at 7 p.m. in the City Council Chamber, Room 315, City & County Building, 451 South State Street. The Administration briefed the City Council on the items at the Council work session October 6.

It should be noted that it is a general practice of the City Council to delay action on most issues scheduled for public hearings until a subsequent meeting.

It also should be noted that the following options and motions are based on an assumption that the City Council not only will consider the public benefit study but ultimately authorize the Mayor to sign the proposed agreement.

OPTIONS

PUBLIC BENEFIT STUDY

- Adopt the resolution supporting the conclusions of the public benefit study published December 9, 2008, that is part of the Administration transmittal.
- Do not adopt the resolution.

PROPOSED AGREEMENT

- Adopt the proposed agreement as written.
- Amend the proposed agreement.
- Do not adopt the proposed agreement.

POTENTIAL MOTIONS

PUBLIC BENEFIT STUDY

- I move that the City Council adopt the resolution that adopts the conclusions of a study performed under Utah Code Section 10-8-2(3), and making finding regarding value and public benefit with respect to a donation agreement between the City and the Salt Lake City bicycle Collective relating to unclaimed bicycles.
- I move that the City not adopt the resolution.

PROPOSED AGREEMENT

- I move that the City Council authorize the Mayor to sign the donation agreement between Salt Lake City and the Salt Lake City Bicycle Collective, a Utah non-profit corporation.
- I move that the City Council authorize the Mayor to sign the donation agreement between Salt Lake City and the Salt Lake City Bicycle Collective, a Utah non-profit corporation with the following amendments to the agreement:
 - That Paragraph No. 4 under the heading *Agreement* read, “The Salt Lake City Bicycle Collective shall distribute in a reasonable and equitable way the donated bicycles to any organization or institution that requests them.
 - That in Paragraph No. 1 under the heading *Agreement*, the sentence reading, “The Police Department is not obligated to donate any bicycles to the Bicycle Collective.” be replaced with the sentence, “The Police Department shall donate all bicycles determined to be unclaimed property to the Salt Lake City Bicycle Collective.”
 - That the maximum cap of up to 200 bicycles per calendar year donated to the Salt Lake City Bicycle Collective be increased to 300 bicycles per year.

DISCUSSION OF POTENTIAL AMENDMENTS TO PROPOSED AGREEMENT

It should be noted that the Administration is satisfied that the agreement is sufficient as written.ⁱ

In Council staff’s review of the audio tape of the October 6 briefing two issues were raised in the discussion.

First, there was a concern that it did not seem clear that the Bicycle Collective would donate bicycles to any group that asked for a donation. Paragraph No. 4 of the proposed agreement might allay the concern. However, the City Council may wish to make the paragraph explicit. The paragraph reads, “The Bicycle collective shall dispose of the donated bicycles in a manner consistent with its mission and its 501 (c)(3) status.”

The Bicycle Collective’s stated mission is “to promote cycling as an effective and sustainable form of transportation and as a cornerstone of a cleaner, healthier and safer society. The Bicycle Collective provides refurbished bicycles and educational programs to the community, focusing on children and lower income households.” The Bicycle Collective executive director indicated after the briefing that any 501(c)(3) non-profit group is eligible to receive bicycles, including Scouting groups. Governmental and school agencies also would qualify. The executive director indicated that the only reason the Collective would turn away any of the organizations listed would be a lack of bicycles.ⁱⁱ

Second, there was some discussion about the Bicycle Collective's concern that the Police Department might at times retain bicycles that are in better condition or are more expensive models for its own public outreach programs. The Bicycle Collective sells some donated bicycles to help pay for refurbishing and fixing less expensive models. During the discussion the Administration indicated that two sentences in Paragraph No. 1 that read, "The Police Department is not obligated to donate any bicycles to the Bicycle Collective.," and, "The Bicycle Collective may reject any bicycles tendered by the City." provide a balance to the issue. In addition, the Administration indicated that it intends to monitor the donation program if the agreement between the City and the Collective moves forward.ⁱⁱⁱ Nevertheless, the Administration indicated that it would support an increase in the maximum cap of 200 donated bicycles to a cap of 300 bicycles.^{iv} It should be noted that the Administration transmittal and the public benefit study estimate that the number of bicycles the Police Department either finds as abandoned or obtains as evidence usually is between 100 and 200 a year.

PUBLIC BENEFIT STUDY

Utah Law allows municipalities to appropriate money for corporate purposes. Utah Code Section 10-8-2(3) reads:

It is considered a corporate purpose to appropriate money for any purpose that, in the judgment of the municipal legislative body, provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality subject to the following:

(a) The net value received for any money appropriated shall be measured on a project-by-project basis over the life of the project.

(b) The criteria for a determination under this Subsection (3) shall be established by the municipality's legislative body. A determination of value received, made by the municipality's legislative body, shall be presumed valid unless it can be shown that the determination was arbitrary, capricious, or illegal.

(c) The municipality may consider intangible benefits received by the municipality in determining net value received.

The public benefit study published December 9, 2009, indicates that the Police Department generally makes between \$2,000 and \$4,000 a year at an annual auction of 100 to 200 bicycles that have become unclaimed property.

However, the study appears to conclude that the potential revenue loss is more a diversion of potential revenue than a direct appropriation. Moreover, the study appears to conclude that the intangible benefits to the City from donating the bicycles to the Salt Lake City Bicycle Collective include "promoting biking as an alternative means of transit," promoting physical fitness, protecting air quality and meeting City goals of protecting and enhancing the environment, and promoting community problem solving."

The study notes, "The Bicycle Collective provides bicycles to anyone who requests them at no cost, along with providing bike safety lessons and equipment. In addition, the Collective repairs the bicycles and ensures they are safe to ride."

ⁱ Administration e-mail, October 12, 2009

ⁱⁱ Bicycle Collective e-mail, October 19, 2009.

ⁱⁱⁱ City Council Audio Minutes, October 6, 2009, 4:52 p.m. to 4:55 p.m.

^{iv} Administration e-mail, October 12, 2009.



RALPH BECKER
MAYOR

SALT LAKE CITY CORPORATION

OFFICE OF THE MAYOR

CITY COUNCIL TRANSMITTAL

David Everitt, Chief of Staff



Date Received:

Date sent to Council: MARCH 31, 2009

TO: Salt Lake City Council
Carlton Christensen, Chair

DATE: March 27, 2009

FROM: David Everitt, Chief of Staff

SUBJECT: Donation of Unclaimed Bicycles Held by the Police Department

STAFF: Matt Lyon, Assistant to the Chief of Staff

DOCUMENT TYPE: Resolution

RECOMMENDATION: The Administration recommends the Salt Lake City Council approve the donation of unclaimed bicycles held by the Police Department to the Salt Lake City Bike Collective.

BUDGET IMPACT: Based on past revenue generated from the auction of unclaimed bicycles, the Administration estimates a revenue loss of \$2,000 - \$4,000.

BACKGROUND/DISCUSSION: Typically, the police department auctions roughly 100 – 200 unclaimed bicycles per year. The Mayor's Bicycle Advisory Committee (MBAC), in conjunction with the Salt Lake City Bike Collective, has requested that these bikes be donated to the Bike Collective rather than sold at auction.

The Salt Lake City Bike Collective is a 501(c)(3), community based organization with the mission "to promote cycling as an effective and sustainable form of transportation and as a cornerstone of a cleaner, healthier, and safer society." The group provides refurbished bicycles and educational programs to the community, focusing on children and lower income households.

Increasing bicycle use is a key to addressing our future air quality, transportation, and environmental concerns. Bicycling is also a sustainable and healthy mode of transportation. As the attached study outlines, due to the low cost to the City and benefits of encouraging bicycling as an alternative means of transportation, the Administration recommends the City pursue this action.

RESOLUTION NO. _____ OF 2009

Adopting the conclusions of a study performed under Utah Code Section 10-8-2(3), and making findings regarding value and public benefit, with respect to a donation agreement between the City and the Salt Lake City Bicycle Collective relating to unclaimed bicycles.

WHEREAS, the Salt Lake City Police Department (the "Police Department") often takes possession of bicycles as evidence or as property abandoned in public areas; and

WHEREAS, based on past experience, the City usually realizes in the range of \$2000 to \$4000 a year from the auction of unclaimed bicycles pursuant to Salt Lake City Code Chapter 2.10, Article IV – Disposition of Custodial and Unclaimed Property – Rationale; and

WHEREAS, pursuant to the requirements of Utah Code Section 10-8-2(3), a study (the "Study") has been performed setting forth an analysis and demonstrating the purpose for the City entering into the Donation Agreement; and

WHEREAS, the City Council has, following the giving of not less than fourteen (14) days public notice, conducted a public hearing relating to the foregoing, in satisfaction of the requirements of Utah Code Section 10-8-2(3); and

WHEREAS, the Council has reviewed the Study, and has fully considered the analysis and conclusions set forth therein, and all comments made during the public hearing;

THEREFORE, BE IT RESOLVED by the City Council of Salt Lake City, Utah, as follows:

1. The City Council hereby adopts the conclusions set forth in the Study, and hereby finds and determines that, for all the reasons set forth in the Study, (a) the net value, both tangible and intangible, to be received by the City will constitute adequate consideration, or equivalent value, for the benefit being provided by the Donation Agreement, and (b) the Donation Agreement will provide for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the City.

Passed by the City Council of Salt Lake City, Utah, this _____ day of _____, 2009.

SALT LAKE CITY COUNCIL

By: _____
CHAIRPERSON

ATTEST:

DEPUTY CITY RECORDER

APPROVED AS TO FORM:


3/31/09

CITY ATTORNEY

Memo



To: David Everitt, Chief of Staff
From: Matt Lyon, Assistant Chief of Staff
Date: October 30, 2008
Re: Donating Police Evidence Bicycles

Summary

The Mayor's Bicycle Advisory Committee (MBAC), in conjunction with the Salt Lake City Bike Collective has requested that repossessed bikes be donated to the collective rather than sold at auction. Due to the low cost to the City and benefits of encouraging bicycling as an alternative means of transportation, the staff recommends Salt Lake City donate repossessed bicycles to the Salt Lake City Bike Collective.

Background

Each year, the Salt Lake City Police Department receives roughly 100 - 200 bicycles. These bikes are either abandoned in public areas or received as evidence. By law, the Department must hold the bicycles for at least 90 days after they are no longer considered evidence. This period allows the owner to be notified and pick up the equipment, if desired. After 90 days, unclaimed bikes are auctioned and/or scrapped.

The Salt Lake City Bike Collective is a volunteer, community based organization with the mission "to promote cycling as an effective and sustainable form of transportation and as a cornerstone of a cleaner, healthier, and safer society." The group provides refurbished bicycles and educational programs to the community, focusing on children and lower income households.

The Mayor's Bicycle Advisory Committee (MBAC), in conjunction with the Salt Lake City Bike Collective, has requested that repossessed bikes be donated to the collective rather than sold at auction.

Costs/Potential Savings

The City generates roughly \$2,000 - \$4,000 per year through the auction of bicycles. The City would experience a loss of this amount in general fund revenue if the bicycles were donated rather than auctioned. The City will not experience any cost savings from the partnership because the bikes must be held for a 90 day period regardless if they are auctioned or donated.

Recommendation

Salt Lake City should donate repossessed bicycles to the Bike Collective. The Bike Collective provides bicycles to anyone who requests them, along with providing bike safety lessons and equipment. In addition, the Collective repairs the bicycles and ensures they are safe to ride. Together this creates a better package than the City donating bikes to individual requests. In addition, the Bike Collective effectively promotes biking as an alternative means of transit. In the long run, this program could help increase biking as an alternative transportation, improve air quality in the valley, and help achieve some of the mayor's objectives.

Steps to implement

- 1) Conduct a Doug Short analysis.
- 2) Work with Bike Collective to draft an agreeable memo of understanding. Considerations should include ensuring bicycles are provided to any organization that requests bikes from the City at no cost. Salt Lake City should also ensure it is listed as a sponsor of the program and in the Bike Collective's Annual Report.
- 3) Draft letter to Chief of Police instructing repossessed bikes to be donated to the Bike Collective.

Additional Questions to Consider

- 1) The City should consider a limit to the number of bikes donated to the bike collective each year. Although revenue is not currently a major issue, as biking becomes more common and there is potential for an increased number of bikes being collected by the police department. This may eventual increase the City's revenue loss to where it may not want to continue the MOU.
- 2) The Bike Collective and/or City should monitor the number of bikes that are donated to the Collective, but end up in back in evidence because they were abandoned or left elsewhere.

MEMORANDUM

TO: David Everitt
Chief of Staff

FROM: Kay Christensen

DATE: December 9, 2008

SUBJECT: Donation of Police Evidence Bicycles: Study to Comply with
Utah Code Annotated Section 10-8-2

It is recommended that Salt Lake City donate abandoned bicycles and bicycles received in evidence by the Police Department to the Salt Lake City Bike Collective. To assure that the donation of the bicycles by the City would be in compliance with UCA 10-8-2, the following study has been performed. UCA 10-8-2 states the purposes for which a municipal body may appropriate funds and the factors that must be considered in determining the propriety of such an appropriation. This study will consider the following factors:

- (1) The specific benefits to be received by the City;
- (2) The City's purpose in making the appropriation, including an analysis of how the safety, health, prosperity, moral well-being, peace, order, comfort or convenience of the residents of Salt Lake City will be enhanced; and
- (3) Whether the appropriation is "necessary and appropriate" to accomplish the City's goals.

Benefits and Costs to Salt Lake City: The Mayor's Bicycle Advisory Committee (MBAC), in conjunction with the Salt Lake City Bike Collective has requested that repossessed bikes be donated to the Collective rather than sold at auction. Each year, the Salt Lake City Police Department receives roughly 100 - 200 bicycles. These bikes are either abandoned in public areas or received as evidence. By law, the Department must hold the bicycles for at least 90 days after they are no longer considered evidence. This period

allows the owner to be notified and pick up the equipment, if desired. After 90 days, unclaimed bikes are auctioned and/or scrapped.

The City generates approximately \$2,000 - \$4,000 per year through the auction of bicycles. The City would experience a loss of this amount in general fund revenue if the bicycles were donated rather than auctioned. The City will not experience any cost savings from the partnership because the bikes must be held for a 90 day period regardless if they are auctioned or donated.

The Salt Lake City Bike Collective is a volunteer, community based organization with the mission "to promote cycling as an effective and sustainable form of transportation and as a cornerstone of a cleaner, healthier, and safer society." The group provides refurbished bicycles and educational programs to the community, focusing on children and lower income households at no cost.

Meeting Salt Lake City's Purposes and Enhancing the Quality of Life for Residents: The Bike Collective provides bicycles to anyone who requests them at no cost, along with providing bike safety lessons and equipment. In addition, the Collective repairs the bicycles and ensures they are safe to ride. In addition, the Bike Collective effectively promotes biking as an alternative means of transit. Biking also promotes physical fitness, protects air quality in the valley and is a popular form of recreation.

Accomplishing Salt Lake City's Goals: Salt Lake City's Strategic Plan states that the mission of Salt Lake City Corporation is "to make Salt Lake City the best place to live, work, play, visit and to do business." The City has adopted a performance measurement tool called the Balanced Scorecard to assist the City in articulating strategic goals, measures and targets for all departments and divisions within the City. The goals include protecting and enhancing the environment, promoting community problem solving, promoting alternative means of transportation and protecting and enhancing the environment. These goals would be positively impacted by the donation of bicycles to the Bike Collective.

CONCLUSION: As stated, this study is conducted to meet the requirements of Utah Code Section 10-8-2 which states the purposes for which a municipal body may appropriate public funds. The potential bicycle donation is not a direct appropriation of funds, but rather, a diversion of

potential revenue. The City would lose the \$2,000 to \$4,000 in potential revenue, but would gain a partner in the City's efforts to encourage alternative forms of transportation, along with the environmental and personal fitness benefits for City residents that would follow as a result. Therefore, the City receives adequate consideration for the potential annual loss of \$2,000 to \$4,000 as a result of the donation of bicycles to the Salt Lake City Bike Collective.

To meet the law's requirements, this study has been available in the City Recorder's Office, Room 415, City & County Building, 451 South State Street since _____, 2007. The City Council will hold a public hearing on whether to adopt a resolution approving the proposed study. The public hearing will be held _____.

DONATION AGREEMENT

THIS DONATION AGREEMENT ("Agreement") is made this ____ day of _____, 2009, by and between SALT LAKE CITY CORPORATION, a Utah municipal corporation ("City"), and the SALT LAKE CITY BICYCLE COLLECTIVE (the "Bicycle Collective"), a Utah non-profit corporation, with its principal offices at 2312 S. West Temple, Salt Lake City, Utah, 84115.

RECITALS

- A. The mission of the Bicycle Collective is "to promote cycling as an effective and sustainable form of transportation and as a cornerstone of a cleaner, healthier, and safer society."
- B. The Bicycle Collective provides refurbished bicycles and educational programs to the community, focusing on children and lower income households.
- C. The Internal Revenue Service has issued a 501(c)(3) determination letter to the Bicycle Collective.
- D. Increased use of bicycles would promote a variety of the City's goals, including those related to sustainability.
- E. The Salt Lake City Police Department (the "Police Department") often takes possession of bicycles, as evidence or as property abandoned in public areas. Based on experience, there is no typical yearly number, but the number could be in the range of 100 to 200 bicycles per year.
- F. Pursuant to Salt Lake City Code Chapter 2.10, Article IV – Disposition of Custodial and Unclaimed Property – Rationale ("the Unclaimed Property Ordinance"), the City is authorized in specified circumstances and pursuant to specified procedures to either sell or devote to public interest use Unclaimed Property in its possession, including unclaimed Custodial Property.
- G. The Bicycle Collective has requested that the City donate to it, rather than selling at public auction, unclaimed bicycles in the possession of the Police Department. The Mayor's Bicycle Advisory Committee supports the Bicycle Collective's request. The Mayor and the Police Chief believe that such a donation is in the City's interest.
- H. A public benefit study of such donations has been prepared by the City a public hearing held has been on _____, and City Council approval has been provided by Resolution No. ____ of 2009 pursuant to UCA § 10-8-2.
- I. Pursuant to SLCC Section 2.10.150, the Mayor has adopted an executive order with respect to devoting to public interest use unclaimed bicycles held by the Police Department.

AGREEMENT

In consideration of the foregoing recitals and the following mutual promises and consideration, the parties agree as follows:

1. Following compliance with the public notice, time, and other requirements of the Unclaimed Property Ordinance as they may be applicable, the Police Department may donate to the Bicycle Collective unclaimed bicycles in the possession of the Police Department up to a maximum of 200 per calendar year upon the request of the Bicycle Collective. The Police Department is not obligated to donate any bicycles to the Bicycle Collective. The Bicycle Collective may reject any bicycles tendered by the City.

2. All bicycles are donated in "as is" condition and the Bicycle Collective specifically acknowledges that the City makes no warranties, express or implied.

3. The Bicycle Collective shall pick up all donated bicycles on the first business day of each calendar quarter or at such other times as the parties may agree in writing. The Bicycle Collective shall pick up the donated bicycles, and transfer of title shall occur upon pick up, at [location] or such other location as the parties may mutually agree in writing.

4. The Bicycle Collective shall dispose of the donated bicycles in a manner consistent with its mission and its 501(c)(3) status.

5. This Donation Agreement shall be effective as of _____, 2009 for a one year term and shall be automatically renewed for successive one year terms unless either party objects to renewal on thirty days advance written notice. Either party may terminate this Donation Agreement at any time on ninety (90) days written notice.

6. Any notice pursuant to this Donation Agreement shall be given by first class mail and electronic mail addressed as follows:

If to the City

Sergeant Lee Dobrowolski
Public Safety Building
315 E 200 S
Salt Lake City, UT 84111
(801) 799-3808

If to the Bicycle Collective

Jonathan Morrison
2312 S West Temple
Salt Lake City, UT 84115-2623
(801) 328-2453

7. In the Event that the Bicycle Collective loses its 501(c)(3) status, this Donation Agreement shall immediately terminate.

8. Following the donation of a bicycle, the Bicycle Collective will indemnify and hold the City harmless from any claims by the Bicycle Collective and/or third parties with respect to the bicycle and/or the use or operation thereof.

9. Representation regarding ethical standards for City officers and employees and former City officers and employees:

The Bicycle Collective represents that it has not: (1) provided an illegal gift or payoff to a City officer or employee or former City officer or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, or brokerage or contingent fee, other than bona fide employees or bona fide commercial selling agencies for the purpose of securing business; (3) knowingly

breached any of the ethical standards set forth in the City's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code; or (4) knowingly influenced, and hereby promises that it will not knowingly influence, a City officer or employee or former City officer or employee to breach any of the ethical standards set forth in the City's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date and year first written above.

SALT LAKE CITY CORPORATION

By:

Title:

ATTEST AND COUNTERSIGN:

APPROVED AT TO FORM:

CITY RECORDER

City Attorney

/_____
Date

SALT LAKE BICYCLE COLLECTIVE

By

Name

Title

Date

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

On the ____ day of _____, 2008, personally appeared before me
_____, who, being by me duly sworn, did say that he is
the _____ of SALT LAKE BICYCLE COLLECTIVE, a nonprofit
corporation, and acknowledged to me that he executed the same for and on behalf of said
corporation.

NOTARY PUBLIC

My Commission Expires:
