



2950 PERALTA OAKS COURT P.O. BOX 5381 OAKLAND CALIFORNIA 94605-0381
 T. 1 888 EBPARKS F. 510 569 4319 TDD. 510 633 0460 WWW.EBPARKS.ORG



BOARD EXECUTIVE COMMITTEE

Thursday, March 26, 2009
 12:45 p.m., Board Room

The following agenda items are listed for Committee consideration. In accordance with the Board Operating Guidelines, no official action of the Board will be taken at this meeting; rather, the Committee's purpose shall be to review the listed items and to consider developing recommendations to the Board of Directors.

A copy of the background materials concerning these agenda items, including any material that may have been submitted less than 72 hours before the meeting, is available for inspection on the District's website (www.ebparks.org), the Headquarters reception desk, and at the meeting.

AGENDA

STATUS	TIME	ITEM	STAFF
(R)	12:45 p.m.	1. Agreement for use of East Bay Regional Park District Swimming Pools, Lagoons, Shoreline Parks, and Lakes by the Oakland Unified School District	Radosevich/Victor
(R)	1:15 p.m.	2. FPPC Regulations 18944.1 and 18944.2 Pertaining to Gifts to an Official	Radosevich
(R)	1:45 p.m.	3. Sustainability Policy	Scheer
		4. Public Comments	

- (R) Recommendation for Future Board Consideration
- (I) Information
- (D) Discussion

Future Meeting Dates

April 23	May 28
June 25	July 23
Aug. 27	Sept. 24
Oct. 22	Nov. 24 (Tues.)

Executive Committee Members:

Ted Radke, Chair; Doug Siden; Ayn Wieskamp
 Beverly Lane, Alternate
 Pat O'Brien, Staff Coordinator

Distribution/Agenda

Carol Severin
 John Sutter
 Whitney Dotson
 Mike Anderson
 Tim Anderson
 Susan Gonzales
 Bob Doyle
 Ted Radosevich
 Carol Victor
 Erich Pfuehler
 Neva Dinwiddie
 Yolande Barial

Bruce Beyaert
 Afton Crooks
 Ralph Kanz
 Michael Kelley
 Judy Bank
 Daniel Levy
 Sylvia Falcon

Distribution/Full Packet

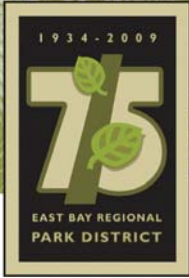
Ayn Wieskamp
 Doug Siden
 Ted Radke
 Beverly Lane
 Pat O'Brien
 John Escobar
 Dave Collins
 Allen Pulido
 Tyrone Davis – POA
 Dave Kalahela – Local 2428
 Dee Rosario – Local 2428
 Kelly Barrington – Local 2428

Rich Guarienti
 Norman LaForce

Ted Radosevich
 Carol Victor
 Anne Scheer

Board of Directors

Ted Radke President Ward 7	Doug Siden Vice-President Ward 4	Beverly Lane Treasurer Ward 6	Carol Severin Secretary Ward 3	John Sutter Ward 2	Whitney Dotson Ward 1	Ayn Wieskamp Ward 5	Pat O'Brien General Manager
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DATE: March 19, 2009

TO: Board of Directors

FROM: Pat O'Brien, General Manager

SUBJECT: Background Information for the March 26, 2009 Board Executive Committee Meeting

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

Ted Radosevich, District Counsel, will make a presentation on this agenda item.

BACKGROUND

Staff recommends the Park District enter into an agreement with the Oakland Unified School District ("School District") governing the School District's use of Park District pools, lagoons, or shorelines. The agreement stems from litigation arising from an accidental drowning of a student during a school picnic at Roberts Park. The proposed agreement represents an effort to minimize the risks to the Park District from such swim trips and avoid future lawsuits with the School District. Under the terms of the agreement, the School District agrees that it shall obtain an executed waiver for every participant who attends a school trip. If the School District fails to obtain a waiver from the participant, the Park District retains the right to seek contribution from the School District for any claims arising from that trip. Park District and School District legal staff are currently drafting an agreement consistent with these principles. Staff is bringing this item for conceptual approval by the Board Executive Committee in March so timelines can be met to authorize the agreement in April 2009 in advance of the 2009 swim season.

This agreement is only one part of the parties' mutual efforts to minimize the risks associated with swim trips. The parties have also informally agreed to cooperate on parent and chaperone water-safety education. In addition, the Park District is sponsoring the First Wave Program with the YMCA, which aims to teach every Oakland third-grader basic water skills.

RECOMMENDATION

Staff recommends that the Board Executive Committee support approval of the agreement by the full Board of Directors. When the item comes to the Board of Directors a final, written agreement will be included as part of the staff report.

Board of Directors

Ted Radke President Ward 7	Doug Siden Vice-President Ward 4	Beverly Lane Treasurer Ward 6	Carol Severin Secretary Ward 3	John Sutter Ward 2	Whitney Dotson Ward 1	Ayn Wieskamp Ward 5	Pat O'Brien General Manager
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2. FPPC Regulations 18944.1 and 18944.2 Pertaining to Gifts to an Official

Ted Radosevich, District Counsel, will make a presentation on this agenda item.

BACKGROUND

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

Regulation 18944.1 – Gifts: Tickets or Passes to Events

Regulation 18944.1 pertains to tickets or passes to events provided to an official. According to the new regulation, an official’s use of the ticket or pass will not be considered a “gift” to the official and will not be reportable under the following circumstances:

- The ticket or pass is used to attend an event at which the official performs a ceremonial role or function on behalf of the Park District.
- The ticket or pass is provided to the official by the Park District and its use is for a specific governmental or public purpose, and the ticket was distributed in accordance with the Park District’s policy on distribution of tickets or passes. The draft policy is attached as Exhibit A.
- The ticket or pass is provided to the District from an outside source and that source does not designate which official shall receive the ticket or pass.

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

Regulation 18944.2 – Gifts to an Agency

Regulation 18944.2 governs the distribution of payments made to a public agency and circumstances under which payment made to an official is not considered a reportable or limited gift to an official, although the official receives a personal benefit from the payment. A copy of the draft policy is attached as Exhibit B.

Payment that is otherwise a gift to an official shall be considered a gift to the Park District and not to the official if all of the following requirements are met:

- The agency head (or in our case the General Manager) determines and controls the use of the payment.
 - i. The donor may identify the purpose, but may not designate by name, title, class or otherwise an official who may use the payment.
 - ii. The agency head selects the individual who will use the payment. The agency head may not select himself or herself as the individual who will use the payment.
- The payment is used for official Park District business.
- The Park District reports the gift on FPPC Form 801.

Similar to Regulation 18944.I, the Park District is required to report the payment within 30 days after its use. The report must also be posted on the Park District's website.

RECOMMENDATION

Staff recommends that the Board Executive Committee approve the draft policies. Assuming these policies are approved, staff will forward it to the Board of Directors for review and approval.

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

3. Sustainability Policy

Anne Scheer, Chief of Maintenance and Skilled Trades, will make a presentation on this agenda item.

BACKGROUND

In keeping with the goals set out by the Park District's 1977 Master Plan to "maintain a careful balance between the need to protect and conserve resources and the recreational use of parkland," the East Bay Regional Park District recognizes the need for a sound sustainability policy in order to integrate new "Green" technologies and methods into the operations, stewardship, planning, and development of our parks and open spaces.

Sustainability is typically defined as *principles that promote a sustainable future without compromising the ability of future generations to meet their needs*. By applying the principles of recycling, conservation, and waste reduction into everyday practices, the Park District can significantly reduce the amount of waste that is disposed into landfills, reduce its waste disposal costs, conserve energy and natural resources and set an example for the public. In 2002, the Board of Directors adopted Resolution No. 2002-12-263 authorizing the General Manager to prepare a Recycling and Waste Reduction Plan. A draft policy was developed and several recommendations from that policy have been incorporated by staff into daily operations. Early in 2008 it became apparent that a broader policy statement was necessary to expand upon the initial goals of recycling and waste reduction. The attached draft policy (Exhibit C) includes a wide array of sustainable practices that will minimize human impacts on local and worldwide ecosystems.

This policy was developed by a staff committee with representative staff from Management Services, Operations, Interpretive and Recreation Services, Finance, Maintenance, Design/Construction, and Public Safety. The goal of the committee was to formulate a policy that would require the Park District to:

- Identify and recommend pilot programs meeting general sustainability principles.
- Identify methods for recovery of construction and demolition waste generated by Park District staff and contractors, food waste and other organics for composting and other materials currently not recycled.
- Develop a methodology for monitoring and reporting the quantities and costs of Park District solid waste, and recycling and waste reduction activities in order to establish baseline data for measuring waste reduction efforts.
- Establish and/or improve appropriate recycling opportunities and methods to be used by the general public in the parks.

- Establish an environmentally responsible purchasing program that emphasizes the purchase of products that minimize environmental impacts, the use of toxic materials, pollution, hazards to workers and the safety of the community; to the greatest extent practicable.
- Divert 90% to 100% of all Portland cement concrete and asphalt concrete, and an average of at least 50% of all other debris from construction, demolition, and renovation projects away from landfills.
- Incorporate information about sustainability and waste reduction/recycling into the Park District's public education and outreach programs to encourage the participation of the public in this effort.
- Improve practices and procedures for reducing waste generated at Park District offices and outdoor facilities.
- Develop in-house training and expertise in Green building techniques, creating new standards for construction and remodeling projects.
- Identify projects and procedures for introducing sustainable landscaping into the design and operation of Park District lands.
- Reduce dependence on fossil fuels for the transportation of Park District staff and fueling of equipment.
- Promote work practices that conserve energy and support the natural resource protection goals of the Park District.

The policy is intended to be flexible enough to take into consideration the wide variety of types and large number of facilities operated by the Park District; the various services available from other agencies; haulers and recyclers servicing the two-county area; and the variety of work assignments encompassed in the Park District's daily operations. Since it is the shared responsibility of Park District staff at all levels to ensure that these sustainable practices are put into use, managers and supervisors will be tasked to provide leadership, set specific recycling and waste reduction goals for the facilities and operations under their charge, and ensure that staff is actively involved in sustainable practices as part of their daily routine.

Under direction from the General Manager, specific staff members will be assigned responsibilities for creating written guidelines that can be utilized by all employees. These guidelines will cover:

- Green building construction and demolition
- Environmentally responsible purchasing
- Transportation
- Public outreach
- Resource conservation
- Waste reduction and recycling
- Sustainable landscaping

Maintaining a balance between the need to protect and conserve resources with the recreational use of the parkland will require an adaptive approach that involves participation by both the staff and the public. Identifying, developing, and incorporating sustainable practices in our daily attitudes and activities will have a lasting positive impact on local and worldwide ecosystems for generations to come.

RECOMMENDATION

Staff recommends that the Board Executive Committee approve the draft Sustainability Policy. Assuming the draft policy is approved; staff will forward it to the full Board of Directors for review and approval.

DRAFT

EXHIBIT A

EAST BAY REGIONAL PARK DISTRICT

POLICY FOR RECEIPT AND DISTRIBUTION OF TICKETS AND PASSES

1. AUTHORITY.

This policy is enacted pursuant to the Political Reform Act (California Code of Regulations, Title 2, Division 6, section 18944.1).

2. PURPOSE.

The purpose of this policy is to ensure that all tickets and/or passes provided to an official or employee, either from the District or from an outside source, shall be distributed in furtherance of a governmental and/or public purpose pursuant to section 18944.1. According to section 18944.1, these tickets and/or passes are not gifts to an official or employee if the District distributes these tickets and/or passes in accordance with an adopted written policy.

3. PUBLIC PURPOSE.

The public purpose of providing the complimentary ticket and/or pass to an official or employee for admission to an event is to enable him or her to promote the District and District events, activities, or programs. This includes, but is not limited to the following:

- (a) Promotion of special events in accordance with any District contract.
- (b) Promotion of public facilities available for public use.
- (c) Promotion of District visibility, recognition, or profile on a local, state, or national scale.
- (d) Promotion of District-controlled or sponsored events, activities, or programs.
- (e) Promotion of tourism activities within the District, including conferences and conventions.
- (f) Marketing promotions highlighting the achievements of District.
- (g) Employment recruitment programs.

4. DEFINITIONS.

Ticket or Pass: For the purposes of Regulation 18944.1 and this policy, “ticket” or “pass” means admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose.

Immediate Family: As defined in Government Code section 82029, “immediate family” means the spouse and dependent children.

5. AUTHORITY OF GENERAL MANAGER.

The District delegates the authority to distribute any tickets and/or passes in accordance with this policy to the General Manager or his or her designee.

In instances where the General Manager desires to obtain a ticket and/or pass, the Board President shall make the determination whether the General Manager’s use of the ticket and/or pass is in accordance with this policy.

6. TICKETS AND/OR PASSES PROVIDED BY DISTRICT.

A ticket and/or pass provided to an official by the District is not subject to section 18944.1 if the official or employee treats the ticket/pass as income consistent with applicable state and federal income tax laws and the District reports the distribution of the ticket and/or pass pursuant to this policy.

This provision applies only to the benefits the official receives by the admission and are not applicable to any other benefits the official or employee may receive that are not included with the admission, such as food, beverages, or any item presented to him or her at the event.

7. TICKETS AND/OR PASSES PROVIDED FROM AN OUTSIDE SOURCE.

A ticket and/or pass provided from an outside source provided to the official by the District is not considered a “gift” and will not be reportable if the following requirements are met:

- (a) The ticket and/or pass is not “earmarked” by the source for use by the official or employee who uses the ticket/pass;
- (b) The District determines, in its sole discretion, which official or employee may use the ticket and/or pass; and
- (c) The distribution of the ticket and/or pass by the District is made in accordance with this policy.

8. EXEMPTION.

A ticket and/or pass provided to an official or employee for admission at an event at which the official or employee performs a ceremonial role or function on behalf of the District is not a gift to the official and is exempt from this policy. These tickets/passes are exempt from any disclosure or reporting requirements.

9. TRANSFER PROHIBITION.

The transfer by any official or employee of any tickets and/or passes distributed pursuant to this policy to any other person, except to members of the official’s immediate family for their personal use, is prohibited.

10. WEBSITE POSTING.

This policy and any reporting requirement shall be posted on the District’s website.

11. DISCLOSURE FORM.

The distribution of a ticket and/or pass pursuant to this policy shall be posted on FPPC Form 802, or any other form as may be required, and shall be posted in a prominent fashion on the District’s website within thirty (30) days after the distribution. The information contained in the posting shall include all the information as required under section 18944.1.

12. FILING OFFICER AND RETENTION OF FORMS.

The Clerk of the Board is the filing officer of these forms and shall keep a log of the forms under both the name of the District and official receiving the payment.

The forms are public record and are subject to inspection and copying. The forms shall be maintained on file and on the District’s website for a period of not less than four (4) years.

DRAFT

**EAST BAY REGIONAL PARK DISTRICT
POLICY FOR GIFTS TO AN AGENCY**

1. AUTHORITY.

This policy is enacted pursuant to the Political Reform Act (California Code of Regulations, Title 2, Division 6, section 18944.2).

2. PURPOSE.

The purpose of this policy is to set forth circumstances, pursuant to section 18944.2, under which payment made to the District, that is controlled by the District and used for official District business, is not considered a reportable or limited gift to an official or employee, although the official or employee receives a personal benefit from the payment.

3. OFFICIAL DISTRICT BUSINESS.

“Official District Business” as used in this policy shall refer to activities and/or functions in which an individual participates in or performs in order to carry out the mission, programs, and goals of the District.

4. DEFINITIONS.

Payment: As defined in Government Code section 82044, “payment” means a payment, distribution, loan, advance, deposit, gift, or other rendering of money, property, services, or anything else of value, whether tangible or intangible.

Agency Head: An individual in whom the ultimate legal authority of an agency is vested, or who has been delegated authority to make determinations by the District for purposes of this policy.

5. AUTHORITY OF GENERAL MANAGER.

The District delegates the authority to determine and control the District’s use of payment in accordance with this policy to the General Manager or his or her designee.

6. GIFTS TO THE DISTRICT.

A payment, which is otherwise a gift to an official or employee, as defined in Government Code section 82028, shall be considered a gift to the District and not to a gift to the official or employee if the following requirements are met:

- (a) The General Manger determines and controls the use of the payment.
 - i. The donor may identify the purpose, but may not designate by name, title, class or otherwise an official or employee who may use the payment.
 - ii. The General Manager selects the individual who will use the payment. The General Manager may not select himself or herself as the individual who will use the payment.
- (b) The payment must be used for official District business.
- (c) The District reports the gift.

7. WEBSITE POSTING.

This policy and any reporting requirement shall be posted on the District's website.

8. DISCLOSURE FORM.

The use of the payment pursuant to this policy shall be reported on FPPC Form 801, or any other form as may be required, and shall be filed with the Clerk of the Board within thirty (30) days after use of the payment. The information on the form shall include all the information as required under section 18944.2. The Clerk of the Board shall post a copy of the form on the District's website.

9. FILING OFFICER AND RETENTION OF FORMS.

The Clerk of the Board is the filing officer of these forms and shall keep a log of the forms under both the name of the District and official receiving the payment.

The forms are public record and are subject to inspection and copying. The forms shall be maintained on file and on the District's website for a period of not less than four (4) years.

10. LIMITATIONS.

This policy does not apply to the following payments:

- (a) A payment for travel, including transportation, lodging, and meals for an official specified in Government Code section 87200.
- (b) A payment for travel to the extent that it exceeds the District's reimbursement rates for travel, meals, and lodging, and other actual expenses.
- (c) A payment for travel that the General Manager or his or her designee has not pre-approved in writing in advance of the date of the trip.
- (d) Passes or tickets, which are governed by Regulation 18944.1 and by the District's policy for receipt and distribution of tickets and passes.
- (e) Payments from the federal government or federal government agency, such as a grant, reimbursement, funding, or other payment, for education, training, or other inter-agency programs.

SUSTAINABILITY POLICY

STATEMENT OF POLICY

In keeping with the goals set out by its 1997 Master Plan to “maintain a careful balance between the need to protect and conserve resources and the recreational use of parkland” the East Bay Regional Park District recognizes the need for a comprehensive sustainability policy in order to integrate environmentally sound practices, waste stream reduction, and new technologies into the operations, stewardship and development of our parks and facilities. To that end, it is the policy of East Bay Regional Park District (District) to:

- Voluntarily comply with the California Waste Management Act of 1989, Assembly Bill 939 requiring each local jurisdiction in the state to divert 50% of discarded materials from landfill by December 31, 2000, and thereafter maintain or exceed that diversion rate.
- Voluntarily comply with the Waste Reduction and Recycling Act of 1990 (Measure D), whereby the County of Alameda has adopted a policy goal to reduce the total tonnage of landfill materials generated in Alameda County by 75% by the year 2010.
- Apply the State of California and Alameda County principles of waste reduction, reuse, and recycling District-wide in the absence of other mandates.
- Conserve energy and natural resources.
- Reduce or eliminate toxic materials in the park environment, support strong recycling markets, and be cost effective.

IMPLEMENTATION

- The General Manager shall be delegated the responsibility to implement this policy and coordinate with other District personnel as appropriate.
- The General Manager shall work to identify and provide funding to support this policy.
- The General Manager shall direct staff to develop and maintain written guidelines necessary to implement this policy.
- The General Manager shall provide annual program updates to the Board Executive Committee.

EFFECTIVE DATE

- This policy shall take effect on April 22, 2009.

3/10/09