

CITY OF BEVERLY HILLS

STAFF REPORT

Date: August 21, 2007
To: Honorable Mayor & City Council
From: Beverley Simmons, Assistant Director of Community Services
Pat Agnitch, Assistant Director of Community Services
Subject: Community Services Facility Use and Rental Fee Policies
Attachments: Facilities Rental Policy
Facilities Rental Fee Policy

INTRODUCTION

The purpose of this report is to seek Council direction on key policy issues affecting the reservation and use of City facilities by community groups and a discussion and policy regarding the rental fees charged to such groups.

DISCUSSION

Some time ago, staff was approached about the use of the Library auditorium and meeting rooms by a community group for long-term use while their new facility was undergoing construction. While the use of City facilities by religious groups and others has a history in Beverly Hills, there was a concern on the part of Staff regarding the monopoly of meeting room space by one single group. In this case, the organization uses the Library's facilities several times a week for religious services and other activities. In the past, Community Services staff members have developed informal practices to avoid any group having a monopoly on use of a facility. These practices have included reserving only three (3) months in advance for Beverly Hills residents and reserving times only two or three weeks out of a four-week period. In July 2006, we sought direction regarding long-term usage requests and the community group has been renting Library facilities on a month-to-month basis since that time.

As part of the process of evaluating this long-term request, City staff felt it was an opportune time to establish consistent policies and practices for meeting space under the control of the Community Services Department. While pursuant to the Municipal Code, the Director of Community Services has authority to establish rules and regulations such as the Facilities Rental Policy, City staff would like City Council's insight and input regarding the Facilities Fee Policy.

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A. Facilities Rental Policy

The Facilities Rental Policy ("Policy") is a comprehensive policy that addresses the rental of the following interior facilities: Public Library, La Cienega Community Center and Tennis Center and Roxbury Community Center and Clubhouse. It does not address the rental or use of the exterior facilities (i.e. athletic fields), nor does it address Greystone Mansion.

1. Long-term Rental Issue

The Policy provides for the rolling submittal of a rental application. Residents may submit an application three months in advance, City businesses, two months in advance and all others, one month in advance. This will in effect prohibit the long-term rental of these facilities as no one room can be reserved more than one to three months in advance. Staff believes this will allow the rooms to be used by other community users as well as allow use for City classes and functions.

2. Underutilized Facilities

In order to maximize revenue for rooms that are underutilized in general or during non-peak use, the policy provides that a 25% discount may be granted on the rental fee for rentals during non-peak hours. Those hours and corresponding rooms will be determined by the Community Services Director. In addition, the policy also provides that underutilized facilities, as determined by the Community Services Director, can be rented on a long-term basis. A long-term rental is defined as 6 or more consecutive months in which the facility is used by a single permittee one or more times.

3. Eligible Events

Over the years, the Library and other Community Service facilities have been used for a variety of uses. Staff desires to encourage true "community" uses so that meeting room space is utilized for traditional uses such as small group meetings or other gatherings of residents such as a neighborhood book club, etc. To this end, the Policy provides that the facilities can be rented by the general public for use in connection with artistic performances, dinners, meetings, receptions and other uses that do not charge a fee for profit.

During Staff's review of the City's policy, the City Attorney's office informed Staff of a relatively new Ninth Circuit Court of Appeal decision which held that Contra Costa County could prohibit religious institutions from conducting religious worship services in a library meeting room [*Faith Center Church v. Glover*, 480 F.3d 891 (2007)]. The Ninth Circuit held that this did not violate the First Amendment.

Accordingly, in order to preserve the Library Auditorium and other meeting room space for the more traditional uses of such space, Staff recommends that religious worship services not be permitted. The City, however, must still allow use of the facilities by religious groups for secular activities even those that express a religious viewpoint. For example, a workshop that includes a call to prayer speech and teaches one to pray, is likely considered proselytizing. However, because this furthers the discussion about communicating with a higher authority, it is not prohibited. The same is for discussion regarding the bible or other religious books. The Court of Appeal recognized that distinction is challenging, however activities that are pure religious worship can be prohibited.

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In order to allow the religious worship services that are currently reserved and to properly provide notice to those groups who use City facilities and have anticipated their future use, Staff recommends that this portion of the Policy not be effective until January 2008.

B. Charging of Rental Fees

While engaged in the process of drafting the Policy, staff determined that a number of community groups have historically not been charged the rental fee for use of a meeting room. Since the City should not engage in the waiver of fees on an ad hoc basis, the City Attorney's office recommended that a policy be adopted by the City Council that can be followed by City Staff as to the types of community groups that are eligible for free or reduced room rates.

C. Improvements in the Future

For fiscal year 07-08, the rental fee schedule was adjusted. The fee schedule recognizes that the facilities are in poor condition and cannot justify market rate rental fees. However, as the City Council is aware, various facility master plans are in the planning stages and a full report will be brought back to the City Council for review and discussion.

In addition, City Staff is working towards a centralized facility reservation system. Staff envisions that customers will be able to telephone one number and be assisted with their reservations needs from beginning to end. This will provide the customer with one-stop service which is part of the City's goal of being the best of the best.

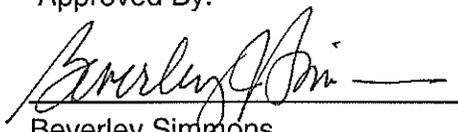
FISCAL IMPACT

The fiscal impact of the two policies concern the revenue generated by the fees charged for the use of City facilities. In order to give the City Council some context, for the use of the Library auditorium is \$75 per hour for residents and \$94 per hour for non-residents. A recreation center room rental or library meeting room rental is \$35 per hour for residents and \$44 per hour for non-residents.

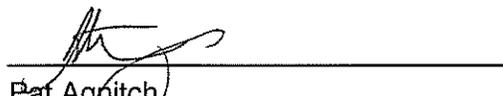
RECOMMENDATION

Staff recommends City Council review the Facilities Rental Policy and provide input and direction regarding the Facilities Fee Policy.

Approved By:



Beverley Simmons
Assistant Director of Community Services



Pat Agnitch
Assistant Director of Community Services

City of Beverly Hills Community Facilities Rental Policy

I. Purpose

The City of Beverly Hills rents certain City facilities to the general public for particular types of short-term events. In determining to whom and for what uses its facilities will be rented, the City acts in a proprietary capacity. The City has never designated its rental facilities as a forum for unlimited expression by the general public.

The purpose of this policy is to prescribe standards for the City's rental of certain facilities to the general public. These standards are intended to facilitate orderly processing of rental applications and to preserve the limited public forum status of the facilities.

City events are exempt from this policy. As used in this policy, "Facility Administrator" means the Director of Community Services or the designee thereof.

II. Scope

This policy applies to the following interior City facilities: Public Library; La Cienega Community Center and Tennis Center; and Roxbury Community Center and Clubhouse.

III. Application Processing

- A. Eligible Events. City facilities may be rented by the general public for use in connection with the following events: artistic performances; dinners; educational programs; medical, legal or financial programs as long no commercial transactions are conducted during the program or on City facilities and persons in attendance are not required to provide their names, phone numbers or addresses on a sign-up sheet or to the program organizer; meetings; and receptions.

- B. Application Submittal. Rental applicants are encouraged to schedule an appointment with City staff to allow for viewing of a City facility before submission of a rental application. Applications shall be submitted, in person, to the appropriate Community Service office, (Library or Recreation & Parks) in

advance of the proposed event date. Applications may be submitted as follows: Beverly Hills residents – 3 months in advance; Beverly Hills businesses – 2 months in advance; all others - 1 month in advance. Applications shall be filed on a City-provided form and shall include the following:

1. *Rental Fee.* The Rental Fee for each City facility is listed in the City's Fee and Charge Schedule that is set annually by the City Council. A waiver of the Rental Fee is not permitted. The Facility Administrator may grant a 25% discount of the Rental Fee for rentals during non-peak hours, and shall annually prepare a memo establishing non-peak hours for the City facilities. An applicant seeking to qualify for the Rental Fee rate for Beverly Hills residents shall satisfy the following criteria: (i) the applicant must reside or have its place of business within the City of Beverly Hills; (ii) if the applicant is a membership organization, documentary evidence must be submitted to confirm that at least 51% of its members are Beverly Hills residents; and (iii) if the applicant is a business, the Rental Fee must be paid with a check imprinted with a Beverly Hills address. Proof of residency may include a utility bill, lease or rental agreement, property deed or property tax form, but shall not include a Beverly Hills post office box or postal zone. An applicant seeking to qualify for the Rental Fee rate for non-profit groups shall submit proof of non-profit status.
2. *Indemnification Agreement.* The indemnification agreement shall obligate the person renting the City facility to indemnify, defend and hold harmless the City and its officers, employees, and agents against any and all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries and deficiencies that the City shall incur or suffer as a result of the event. This obligation shall include payment of interest, penalties and attorney's fees.
3. *Restoration Deposit.* Except as provided in Section IV(C) of this policy, the Restoration Deposit amount

shall be the amount listed in the Fee and Charge Schedule.

- C. Review Criteria. Rental applications shall be reviewed solely according to the following criteria:
1. Satisfaction of the event eligibility criteria.
 2. Availability of the subject facility.
 3. Proximity in location and time to any previously approved event scheduled to occur at another City facility on the date of the proposed event.
 4. Compliance by the applicant, and persons affiliated with the applicant, with the terms of this policy and applicable laws in connection with all other events held at a City facility within the 12 months prior to the date of the proposed event.
- D. Approval or Denial of Application. Rental applications shall be processed by the Facility Administrator in the order received. An application may be approved if there is no ground for denial based on the review criteria; otherwise the application shall be denied. In no case shall an application be denied due to the viewpoint of speech disseminated by the applicant or associated with the proposed event. Notice of the approval or denial of an application shall be given to the applicant in writing or in electronic form. If the application is denied, the notice shall include an explanation of the reasons for the denial and the decision will be final. Approval of an application shall not preclude the City from displacing the applicant's event to accommodate a subsequently-scheduled City event. In that situation, the applicant's use of the subject facility will be rescheduled or all fees paid by the applicant will be refunded in full.

IV. General Requirements

- A. Applicant. The person renting the City facility must be an adult 18 years or older and must be in attendance for the entire time the reservation is in effect.

B. Pre-Event Submittals. The person renting the City facility shall submit the following to the Facility Administrator no less than 7 business days prior the proposed event date:

1. *Staff Service Charge*. The Staff Service Charge amount is listed in the City's Fee and Charge Schedule that is set annually by the City Council. The Staff Service Charge shall be assessed for rental hours beyond normal operating times, and shall be based on the staff time (including time related to planning) associated with an approved event, if applicable.
2. *Proof of Comprehensive Liability Insurance*. Proof of comprehensive liability insurance is required for (i) events involving more than 100 participants or attendees; and (ii) when it is deemed to be in the best interest of the City as determined by the City's Risk Manager. The insurance shall provide a minimum coverage of \$1,000,000 annual aggregate. Such insurance shall be issued by an insurance company that both (i) is admitted and licensed to do business in the State of California; and (ii) is rated A or better according to the most recent A.M. Best Co. Rating Guide. The policy shall name the City as an additional insured; shall specify that it acts as primary insurance and that no insurance held or owned by the designated additional insureds shall be called upon to cover a loss; and shall contain a provision that no termination, cancellation or change of coverage of insured or additional insureds shall be effective until after 30 days notice thereof has been given in writing to the City.

C. Facility Use Permit. When all pre-event submittals have been delivered to the Facility Administrator, a facility use permit shall be issued. The Facility Administrator may impose event-specific conditions on a facility use permit as deemed necessary or appropriate. Such conditions may include a requirement that the permittee retain a private security agency, licensed to operate in Beverly Hills, to supervise an event. In no case shall a condition be imposed due to the content or viewpoint of

speech disseminated by the applicant or associated with the proposed event.

- D. Long-Term Rental. Under-utilized City facilities, as determined by the Facility Administrator, may be rented on a long-term basis for a recurring event. Long-term rental is defined as 6 or more consecutive months in which the facility is used by a single permittee one or more times. The Restoration Deposit amount for a long-term rental shall be 50% of the monthly Rental Fee. Requests to change the authorized event for a long-term rental must be submitted in writing at least 14 days prior to proposed date for the new event. Administrative fees may be assessed for frequent room and date changes.
- E. Supervision of Minors. Events for youth ages 13 – 17 years of age may require supervision by responsible adults at a ratio of one (1) adult for every ten (10) minors. Based upon the nature of the event, supervision by a private security agency may be required.
- F. Parking. Event participants and attendees shall park in the City parking lot, structure or surface street parking. Parking rates shall be as set by the City's Schedule of Fees and Charges.
- G. Equipment. Each City facility has equipment that may be made available at no additional charge, however, support staff to operate the equipment is not provided. There is no guarantee that the City's equipment will be functional at the time of the event, and therefore the permittee is encouraged to provide its own equipment. Privately-owned equipment associated with an event may not be stored overnight at the City facility, except for concessions authorized by the Facility Administrator.
- H. Prohibited Substances. The use of alcoholic beverages, tobacco or narcotics are prohibited.
- I. Decorations. Decorations may not be affixed to facility surfaces with tape, nails, tacks or staples. All decorations and signs must be removed promptly after use.

- J. Religious Worship Services. Religious worship services are prohibited.¹
- K. Commercial Fee Prohibited. No fees shall be charged at an approved event, except that non-profit organizations may accept donations and school districts may charge a fee for attendance or participation at their events.
- L. Animals. Animals are prohibited. This prohibition does not apply to a service animal assisting a disabled person.
- M. Advertisements. Publicity materials shall not advertise City facility telephone numbers and shall conspicuously state that the event is not sponsored by the City of Beverly Hills. All advertisements must be reviewed and approved by the City to ensure compliance with this provision.
- N. Vendors/Businesses. Businesses or performers hired by the facility user group must pay a business tax fee.
- O. Restoration of City Property. The permittee shall be responsible for post-event clean up of the City facility and for the cost of repairing or replacing City property that is damaged or destroyed as a result of such person's event. The Restoration Deposit shall be refunded in full unless the City incurs clean up, repair or restoration expense. If the Restoration Deposit exceeds the cost of clean up, repair or replacement, then the difference shall be refunded upon completion of the work. If the cost of clean up, repair or replacement exceeds the Restoration Deposit, then the difference shall be paid by the person renting the City facility within 10 days of receipt of an invoice from the City. The City or the City's contractor will perform the required work.
- P. Cancellation. Notice of cancellation of an approved event must be provided in writing. Cancellation notice must be submitted no later than fourteen (14) business days prior to the event date or else all fees shall be forfeited. A service fee of one hour will be charged on all cancellations.

¹ This provision will go into effect on January 31, 2008.

- Q. Excess Time Penalties. If an event exceeds the pre-determined timeframe, then additional charges will apply. The event concludes when the room has been vacated. Additional charges will include associated rental fees and double the staff costs for the excess time.
- R. City Staff Directives. City staff shall have unlimited access to approved events and may issue directives to ensure compliance with this policy, the facility use permit, the Municipal Code and other applicable laws.
- S. Termination of Event. The rental applicant's failure to comply with this policy, any facility use permit condition, the Municipal Code, any applicable law or any City staff directive shall be grounds for immediate termination of an approved event. The rental applicant is responsible for insuring his/her guests or participants abide by this policy, any facility use condition, the Municipal Code, any applicable law or any City staff directive that governs the use of the facility.

Stephen Miller
Director of Community Services

Community Facilities Rental Fee Policy

I. Purpose

The City of Beverly Hills ("City") annually adopts a fee schedule for the rental of City facilities. The purpose of this policy is to prescribe standards as to when rental fees shall be waived or reduced by the Community Services Department. This policy pertains to use of the following interior City facilities: Public Library; La Cienega Community Center and Tennis Center; and Roxbury Community Center and Clubhouse ("City Facilities").

II. Rental Fee Waiver

Organizations in the categories listed below shall not be assessed rental fees for City Facilities. The rental fee waiver shall not be applicable to organizations that are not in good standing with the California Secretary of State's office.

1. Non-profit organizations whose primary purpose is to provide organized team sport activities for Beverly Hills youth.
2. Non-profit organizations whose primary purpose is to engage the public's interest and participation in collecting, preserving, and/or displaying art, artifacts, written materials and other memorabilia relevant to the City's history and whose premises are located within Beverly Hills.
3. Non-profit organizations whose primary purpose is to support a facility owned by the City and whose premises are located within Beverly Hills.
4. Homeowners associations whose purpose is to represent Beverly Hills homeowners. Organizations in this category shall be entitled to one (1) rental fee waiver per calendar year.
5. Organizations that represent City employees in the negotiation of salary and benefits.
6. Organizations that both: (i) are engaged in the sport of croquet or lawn bowling; and (ii) serve Beverly Hills residents. Organizations in this category shall be entitled to one (1) rental fee waiver per quarter of each calendar year.
7. School districts having jurisdiction over public schools in Beverly Hills. Organizations in this category shall not be entitled to a rental fee waiver if they charge a fee for attendance or participation at their event in the City Facility.

8. Non-profit national youth organizations for both boys and/or girls that are formed to assist youth in building character and citizenship or to promote relationships between youth and their parents.
9. Parent-teacher organizations formed to support schools located within Beverly Hills. Organizations in this category shall be entitled to ten (10) rental fee waivers per year (measured from September 1st through the following August 31st), for a maximum of three (3) hours per rental.

III. Rental Fee Reduction

Organizations in the category listed below shall be assessed a reduced rental fee for City Facilities. The Director of Community Services shall determine the amount of the reduced rental fee.

1. Organizations that satisfy all of the following criteria: (i) are engaged in the card game activity known as "bridge"; (ii) serve Beverly Hills residents; and (iii) reserve room space for at least 40 hours a week.

IV. General Rules

All organizations seeking a rental fee waiver or reduction must file a City Facility rental application in accordance with the Facilities Rental Policy adopted by the Community Services Director. City Facilities are available on a first-come, first-serve basis in accordance with the Facilities Rental Policy.

Effective Date: January 1, 2008