



SPECIAL Public Amenities Committee
Meeting Summary

Dec. 18, 2007

1:30 p.m.

Room 391

Members Present: Lehmann, Johnson, Madison, Robb

Members Absent: None

Other Council Present: Brown, Garcia, López, Montero

Permitting & Coordination Process during Democratic National Convention

Committee Action

The Committee requested

- discussion prior to filing if any substantive comments submitted by close of the public comment period at 5:00 p.m. on 12-21-07; and
- a matrix comparing current ordinance language and proposed amendments.

Summary of Discussion

Katherine Archuleta, Senior Advisor to the Mayor, and Dan Slattery and Kerry Buckey, assistant city attorneys, presented proposed ordinance amendments regarding permits issued for parades and parks during declared "extraordinary events", specifically the Democratic National Convention in August 2008. Erin Trapp and Kevin Scott, Denver Office of Cultural Affairs (DOCA), were also at the table.

Ms. Archuleta explained that an unprecedented number of applications for use of parks and streets is anticipated for the period around the Democratic National Convention (DNC). In preparation, the City Attorney's Office and the Mayor's Office reviewed the City's policies and procedures to determine if any changes are needed to ensure that the permit process is efficient and equitable. Some of the changes are to policy; others require Council approval of amendments to ordinance language.

Mayoral Declaration of Extraordinary Event

Any major event could be declared an Extraordinary Event by the Mayor, though some of the specifics might vary. The event at hand is the DNC in August 2008. The declaration:

- identifies the DNC as the event that calls for greater coordination of permitting actions;
- defines Aug 15-31, 2008, as the period during which the special processes are in effect;
- defines the geographic area and specific venues included:
 - generally downtown, lower downtown, Platte River valley, Civic Center (map attached);
 - Civic Center Park
 - City of Cuernavaca Park
 - Confluence Park

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- Gates – Crescent Park
- Fishback Landing Park
- Platte River Trail
- Cherry Creek Trail
- Creek Front Park
- Pioneer Monument Park - Colfax and Broadway
- Skyline Park - South, Middle and North
- Eddie Maestas Park
- Lincoln Park
- Macintosh Park
- defines the specific types of licenses and permits included:
 - scheduled events in parks;
 - assemblies in parks;
 - parades;
 - all right-of-way permits;
 - special event liquor permits;
 - peddler's licenses; and
 - film permits.
- Identifies the Denver Office of Cultural Affairs (DOCA), as the coordinator for processing all applications (specifically Kevin Scott).
- establishes a lottery procedure for permit applications for events/assemblies in parks and parade to be utilized when more than one application is submitted during the application period (Jan 28 - Feb 7) for the same date, time and location.

Parade Permits

Many of the proposed modifications here apply to parade permits in general, not only during extraordinary events. Modifications are modeled on the changes Salt Lake City made in preparation for hosting the 2002 Winter Olympics.

- Proposed modification to application submission timeframe:
 - *current*: no sooner than 70 days prior to event; no later than 30 days prior.
 - *proposed*: no sooner than 200 days prior; no later than to 45 days prior.
- Adds a 10-day review period after receipt of a fully completed application for manager of safety to issue or deny the permit, in writing (unless there are conflicting applications).
- Modifies process for conflicting applications received on the same day for the same date, establishing a use priority:
 - Events organized by governmental entities if not "...with the intent or purpose of improperly chilling constitutionally protected rights of competing applicants";
 - Historic usage (5 years) of a date by the same applicant (St. Patrick's Day Parade);
 - Lottery for applications submitted on the same business day requesting the same date.
- Specifies that an alternate route will be authorized if requested route under construction.
- Adds procedures for appeal of a denial or of any condition placed on a permit.
- Manager's decision may be appealed to court under Rule 106(a)(4) of Colorado Rules of Civil Procedure.

The Committee discussed the provision allowing governmental entities the highest priority. The

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attorneys explained that while inserting the language into the parade permit ordinance is new, the legal construct is of long standing and has been upheld repeatedly. All permits, which have no associated property rights, are revocable, but the City does not routinely arbitrarily revoke permits.

Ms. Archuleta said that during an event like the DNC, the City has to be cognizant of use of its resources, but the protection of free speech is the first and foremost priority.

Park Permits – Assembly Permits

The code defines “assembly” as “demonstrating, picketing, speech making, marching, holding of vigils, and all other like forms of conduct which include the communication or expression of ideas, views or grievances, engaged in by one (1) or more persons, the conduct of which has the effect, purpose or propensity to draw a crowd or onlookers”.

Salt Lake City also offered a model for modifications to Denver’s parks permitting ordinance. The proposed changes relate to assemblies, not regular park usage, such as softball or soccer games. Language would be added to clarify the distinction between “Scheduled Events” (i.e., ball games) and “Assembly Permits”.

Other proposed modifications would:

- Provide for the manager to adopt emergency rules if necessary to comply with local, state or federal law or to immediately protect the public health, safety or welfare. Such rules would take effect immediately; would have to be published; and would in effect for a maximum of 180 days.
- Provide for different permit application timeframes per a mayoral declaration of an extraordinary event.
- Require that applicants request to be treated as assemblies, which have no permit fees, and the basis for the assembly (free speech) permit. This helps identify the true free speech events.
- The manager can designate areas within parks that are not available for assembly.
- The same priority for permits (governmental, historic, others) would be in place for assemblies as for parades; and a lottery would be used in the case of applications for the same place at the same time. Unsuccessful applicants would be offered alternative suitable locations, dates and times.
- Assembly permits can be revoked for cause, such as not adhering to the conditions of the permit or other violation creating a danger to life, the public safety or property.
- Adds procedures for appeal of a denial or of any condition placed on a permit.
- Manager’s decision may be appealed to court under Rule 106(a)(4) of Colorado Rules of Civil Procedure.

Other points made during the assembly permit discussion included:

- The courts have ruled that assembly permit fees are not allowed due to the chilling effect of such fees. This also applies to damage deposits and bonds.
- Denver’s parks are closed between 11:00 p.m. and 5:00 a.m., and camping is not allowed. These provisions will not be altered.
- Committee members expressed that the police should enforce the curfew with sensitivity in

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the parks near the Pepsi Center and downtown since out-of-town delegates won't be aware of the curfew.

- Parks Dept. typically accepts applications for parks permits for the following calendar year on Nov. 1. In light of the DNC in 2008, applications will be accepted starting in February.
- The attorneys think that the procedures are fashioned in such a way that the City is on firm legal ground and is adequately protecting First Amendment Rights.

Process

Ms. Archuleta said that the proposed amendments have been circulated to the ACLU, Recreate68 and the Downtown Denver Partnership. The public comment period closes Dec. 21. If there are any substantive changes, she will bring them back to the Committee.

Councilwoman Lehmann asked if any audience members wanted to comment. Susan Rogers, Downtown Denver Partnership, said that they reviewed the draft and submitted some minor suggestions that have been incorporated.

*Gretchen Williams
Council Legislative Services
12-20-07*