



Public Amenities Committee
Meeting Summary

Wed. Jan. 9, 2008 10:30 a.m. Room 391

Members Present: Lehmann, Johnson, Madison, Robb
Members Absent: None
Other Council Present: Garcia

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- Cheesman Park Master Plan
 - City Permitting Processes

1. Cheesman Park Master Plan

Committee Action

The Committee reviewed the Cheesman Park Master Plan. No official Council action is required.

Summary of Discussion

Pam Schooley, Parks & Recreation Project Manager, presented a history of the park and an overview of the plan, a joint effort with Mundus Bishop Design, Inc. The City purchased 160 acres from the federal government in 1872, some of which is now occupied by Cheesman and Congress parks and the Denver Botanic Gardens. One of Denver's oldest parks, the site was designated as parkland and named Congress Park in 1890. Designs prepared in 1898 by Reinhard Schuetze, the City's landscape architect, included a pavilion at the highest location.

The 80-acre park was constructed between 1900 and 1912, during which time heirs of Walter S. Cheesman donated \$100,000 for construction of a memorial pavilion; the park's name was changed to Cheesman; and S.R. DeBoer became the City landscape architect and contributed to the park's design. In 1986, Denver's park and parkway system, including Cheesman Park, was placed on the National Register of Historic Places.

Councilwoman Robb discussed long-standing issues, including the ten traffic access points, the bus route, and parking. Neighbors have formed the Cheesman Park Advocacy Group to work with Parks & Recreation on implementing the master plan. Issues of high priority include:

- Increased safety of pedestrian crossings, perhaps with raised crosswalks;
- Improvement of the western Botanic Garden Gates into the park;
- Programming activities, including Colorado Symphony Orchestra; Movies in the Parks; children's activities at the playground (the Advocacy Group received a grant for this); "Walk in the Park" Sundays (close park to traffic);
- Replacement of ageing trees and other vegetation; and
- Restore the "hourglass" shaped circulation road.

2. City Permitting Processes

Committee Action

The Committee approved filing bills amending the Parks & Recreation Department's permitting process for assemblies and the Public Safety Department's permitting process for parades.

Summary of Discussion

Katherine Archuleta stated that the Administration has been working to revise permitting processes in general, but specifically for events declared "Extraordinary Events" (EE) by the Mayor, such as the Democratic National Convention in August 2008. Based on in-house review and discussions with the American Civil Liberties Union (ACLU) and Recreate 68, draft amendments were prepared and discussed at Committee on December 18, 2007. Subsequently, additional comments and suggestions were submitted by interested parties; many conversations have been held; and the current drafts reflect all of those discussions. Additional comments are still being received.

The primary issue is how to conduct a fair permit application process in instances when there may be multiple organizations applying for assembly or parade permits for the same venues at the same times. Conflicting permit applications are subject to a lottery, conceived as a fair way of determining which organization gets permitted for its first choice. Alternative dates, times, or venues are offered to the others.

Permitting for assemblies and parades can be controversial because of the First Amendment of the U.S. Constitution guaranteeing freedom of speech and assembly. The government cannot control such activity beyond basic considerations of public health, safety and welfare.

Assistant City Attorneys Mary Toornman, Kerry Buckey, and Dan Slattery itemized the changes made to the ordinances since the December 18 drafts were distributed:

Parade ordinance

- Sec. 54-362: deleted provision giving government-sponsored and historic (5-year) parades priority over parades of other organizations.
- Sec. 54-358: clarified that motorcades of dignitaries are not parades and do not require permits.
- Sec. 54-361(c): clarified that short-notice applications (24 hours prior to the parade) may be submitted during a declared extraordinary event.
- Sec. 54-361(c): clarified that the manager must act on short-notice applications in writing within 24 hours.
- Sec. 54-363: deleted entire section requiring indemnification agreement.
- Sec. 54-363: clarified that permit application fees are charged to help off-set the administrative costs associated with review of the application.
- Sec. 54-364: deleted "or unnecessarily" related to interference with traffic as a reason for denial of a permit.
- Sec. 365(d): added that the manager shall send a written decision within 5 business days from receipt of an appeal of denial.
- Sec. 365(b)(1)(c): added "revocation of a permit" as an action that may be appealed.

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- Sec. 54-367(a): added a required finding that an emergency situation has resulted in insufficient resources (i.e., personnel) to handle both that situation and the parade before the manager may revoke a parade permit.

Parks ordinance

Sec. 39-87(a)(1): deleted provision giving government-sponsored events priority over others.

Sec. 39-3: added language allowing for security personnel associated with an event to be in the park after curfew.

Sec. 39-7: clarified that camping is prohibited in all parks at all times except for specific parks (Chief Hosa, Catherine Craig, Tallbull) where camping facilities exist.

Sec. 39-76: changed language to require assembly permits if 50 or more people are expected, rather than only one.

Sec. 39-80(b): deleted “unlawful to comply” language.

Sec. 39-80(c): added language to clarify that only unlawful conduct of the event organizers themselves can result in revocation, not unlawful conduct of others attending the event.

Sec. 39-81: deleted certain procedural language to streamline the permit issuance process.

Sec. 39-81(a)(4): added language to clarify that revocations may be appealed.

Councilwoman Lehmann invited Mark Silverstein, Legal Director, ACLU Colorado, and Mark Cohen, Recreate 68, to address the Committee. Their comments included:

- Appreciation for the City’s attention to their issues.
- Appreciation that priority for governmental agencies was removed from the ordinance.
- Concern at the City Attorney’s assertion that the City has priority regardless of ordinance language.
- Concern about the chilling effect on free speech presented by the non-refundable \$150 permit application fee for parades of more than 15 blocks, especially since the City will receive federal funding for security.
- Concern that there is no consideration for indigent applicants.
- Concern that Civic Center will be unavailable for assemblies once Taste of Colorado starts its set-up, which will occur before conclusion of the DNC.
- Denver should allow camping in parks during the DNC since hotels are full and expensive.
- Concern with Sec. 39-11 prohibition on sale of any items in parks, especially items with expressions of free speech; this should be lifted during the DNC.
- This is a unique opportunity for ordinary people to have a say in how their country is run.
- Denver has an opportunity to make expression of First Amendment rights as easy as possible and be a model city for welcoming the expression of speech.

During the Committee discussion, the following points were made:

- Concern about the lack of a minimum lead-time to declare an EE was answered thusly: The definition of “extraordinary event” clearly implies that there is a long planning horizon with all agencies coordinating. If a group needs to suddenly apply for a permit during an EE, it can do so under the existing short notice provisions.
- Groups do not need a parade permit if they do not stop the flow of traffic; i.e., if the participants stay on the sidewalk (and don’t unduly impede pedestrians).

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- Assembly permit is not required for activities on the public right-of-way unless it is in the street. For instance, a gathering planned to be held on a sidewalk does not require an assembly permit.
- Concern about deletion of priority for events with a 5-year history was answered thusly: no problems have been experienced, and if one does arise, the lottery system will be utilized.
- The deletion of priority for the historic events is only for parades, not assemblies.
- Elimination of the indemnification requirements changes the rules for all applicants, including neighborhood 4th of July parades, not just in context of DNC.
- Fifty was selected as the threshold for requiring an assembly permits because the Supreme Court has approved that number as a reasonable threshold at which the City needs prior notification.
- There are no fees required for assembly permits.
- The purpose of the permit is to provide notice to the City so that logistics and safety issues can be anticipated and adequate plans made.
- Concerns about the prohibition on sale of free speech items (bumper stickers, campaign buttons, etc.) in the parks.

David Broadwell, Assistant City Attorney, said the City continued to analyze the ordinances and review comments. Additional changes to these drafts may be made.

Councilwoman Lehmann asked her colleagues if they were ready to move the draft bills out of Committee, and all agreed. Council members indicated that additional issues may need to be addressed at a later time. Councilwoman Lehmann announced a public hearing would be held on first reading of these two bills, anticipated to be on January 22, 2008.

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