

Agenda Report

TO: CITY COUNCIL

DATE: AUGUST 7, 2000

FROM: CITY MANAGER

SUBJECT: APPROVAL OF AN AGREEMENT AND SUSPENSION OF THE NOISE ORDINANCE RELATING TO THE FOLLOWING PROPOSED: "PASADENA LIVE" CONCERT SERIES ON ELEVEN DATES: SEPTEMBER 7, 8, 15, 16, 22, 23, 27, 29, 30 AND OCTOBER 1 AND 5, 2000, TO BE HELD IN THE GOLD BAND SHELL AT MEMORIAL PARK.

RECOMMENDATION:

It is recommended that the City Council:

1. Direct the City Attorney to prepare an agreement and authorize the City Manager to enter into an agreement with Pasadena Live, LLC to receive \$104,550, and such additional amounts as may be required to fund the improvements to Memorial Park set forth in Attachment "A" to this agenda report, including costs of a contract project manager and to insure that the City is not at risk for successful completion of this improvement program. This amount will be an advance of license fees for the proposed events and will have the other terms and conditions set forth in the body of the agenda report, and;
2. Approve a Journal Voucher recognizing and appropriating \$104,550 to the Memorial Park Master Plan Capital Improvement Account (78453) which is the amount of the estimated improvements plus a contingency, due to improvement estimates being provided by the promoter, to be utilized to fund the improvements as listed in the Background Section, and;
3. Hold first reading of an ordinance to suspend the Noise Ordinance with respect to a proposed concert series by Pasadena Live in the Gold Shell in Memorial Park on the following eleven dates: September 7, 8, 15, 16, 22, 23, 27, 29, 30 and October 1 and 5, 2000 from 7:00 p.m. to 9:30 p.m., and;
4. Acknowledge that the Temporary Conditional Use Permit and the suspension of the noise ordinance necessary to hold the eleven concert events at Memorial Park are categorically exempt from CEQA under CEQA Guidelines Section 15323, Normal Operations of Facilities for Public Gatherings, and;

5. Acknowledge that the proposed improvements within Memorial Park are categorically exempt from CEQA under CEQA Guidelines Sections 15301 Existing Facilities and 15302 Minor Alterations to Land.

BACKGROUND:

Pasadena Live has proposed a series of concerts in the Gold Shell Amphitheater at Memorial Park that will feature popular music and comedy. There will be paid admission for these events, so there will be temporary fencing with fence footings that are not permanent. Pasadena Live will provide complete funding for the City to repair and enhance the Gold Shell before the concert series begins. The improvements will consist of the following: repainting of the Gold Shell's exterior, installation of a roofing sealant to prevent further deterioration, removal of seven trees (these trees are in poor condition and block views of the stage from the seating area), relocation of a palm tree from the seating area to another area of the park, planting seven replacement trees elsewhere in the park, installation of stabilized gravel in place of the existing mulch in the seating area and the repair and repositioning of the existing benches.

Staff has made the determination that these improvements will be consistent with the Memorial Park Master Plan. The improvements are also consistent with the City Council's general goal of enhancing parks and parklands, and the specific goal of improving downtown parks.

The logistics of requisitioning the physical work on the Gold Shell and insuring that it is performed according to approved specifications, and in conformance with the requirements of the Americans with Disabilities Act, the Memorial Park Master Plan, and the Historic status of the Park, in this short time frame presents some practical problems. The work will be performed by a combination of City forces and outside vendors under contract to the City. Although every effort will be made to complete the improvements in time for the concert series to begin on September 7, 2000, no absolute guarantee can be made by the City that the work will be completed in time. All funding for the work will be provided in advance by Pasadena Live.

The deal points of the agreement will be negotiated with no waiver of fees and will be permitted under the City's standard special event permit process of the Filming & Special Events Section of the Planning & Permitting Department. An agreement between the City and Pasadena Live will specify that this project is a "no-risk" venture for the City of Pasadena. Pasadena Live will provide a cash payment in advance equal to 150% of the estimated cost of the improvements (any remaining balance will be refunded to Pasadena Live after the completion of the work) as well as additional compensation to the City for all direct costs associated with the events. Bonding or another acceptable form of security will be provided by Pasadena Live to ensure completion of the improvements and allow for the removal of the improvements at the conclusion of the concert series, if the City wishes to have the improvements removed.

The waiver of the noise ordinance is necessary because the sound produced by the concerts will exceed the allowable decibel level under the ordinance. The maximum noise level that will be

produced by these concerts at the property line of the park adjacent to the Holly Street Apartments will be 90 dBA or 30 dBA above the 60 dBA allowed per PMC 9.36.163 C. A moderately loud level would be 75dBA.

For future Council consideration, Pasadena Live proposes to enter into a long-term license agreement with the City after this concert series. Under the terms of such an agreement, Pasadena Live proposes to make further improvements to the park such as new restrooms, ADA improvements, and additional trees.

The Senior Center and the adjacent residential properties have been informally notified about the proposed special event concert series, and City staff has not received any negative reaction to the proposed improvements or the concert series. The Recreation and Parks Commission has been given updates on this project, but the Commission has not formally reviewed it nor taken any action. The limited and/or temporary nature of the work outlined in this report does not require Design Commission review. In the event that a long-term agreement is proposed, a complete review by all affected Commissions will be undertaken prior to any recommendation to the City Council.

ENVIRONMENTAL IMPACT:

The Environmental Administrator has determined that the proposed suspension of the Noise Ordinance and Temporary Use Permit necessary to hold the limited concert series is categorically exempt from CEQA under CEQA Guidelines Section 15323, Normal Operations of Facilities for Public Gatherings. The Environmental Administrator has also determined that the proposed improvements are categorically exempt from CEQA under CEQA Guidelines Sections 15301 Existing Facilities and 15302 Minor Alterations to Land.

FISCAL IMPACT:

The estimated cost of the improvements to the band shell and the area immediately surrounding the shell is \$69,700. The City will recognize and appropriate \$104,550 (the estimated cost of the improvements, \$69,700, plus a 50% contingency fee, \$34,850) received from Pasadena Live into the Memorial Park Master Plan Capital Improvement Account (78453). This payment will be made prior to issuance of any special event permits and will be non-refundable in the event that Pasadena Live cancels any or all of the concerts. Upon satisfactory completion of all improvements any remaining funds will be returned to Pasadena Live.

Pasadena Live has agreed to pay all City costs associated with each special event (i.e. – Business License, Fire, Health, and Police). An example, in accordance with the General Fee Schedule the direct costs to utilize the park including sound meter reading, park clean up, trash dumpsters, alcohol permit, etc. for each evening performance is \$1,690.

In accordance with the General Fee Schedule, Pasadena Live is to be assessed a 20% surcharge for both admission tickets and food/beverage concessions. The evaluation of same is as follows:

- a. 2,000 tickets per event @ \$50 ea. = \$100,000
- b. \$20 per person for concessions x 2,000 = 40,000
\$140,000 @ 20% = \$28,000 per special event

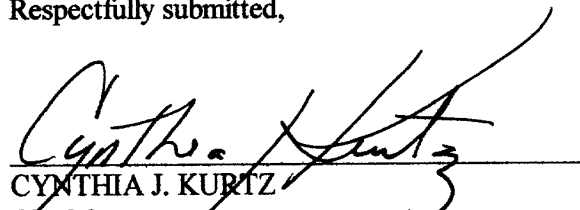
In an effort to work with Pasadena Live, LLC to achieve a long term agreement resulting in Memorial Park receiving additional funding, staff is recommending that for the first two events (Thursday, September 7 and Friday, September 8) the 20% surcharge be reduced from \$28,000 each to \$5,000 each with the following conditions:

- a. Staff review the fiscal impact to the City
- b. Staff review the environmental impact to the Community
- c. Staff review the revenues realized by Pasadena Live, LLC with the intent for the City to receive the 20% surcharge of \$28,000 for each of the remaining 9 special events.

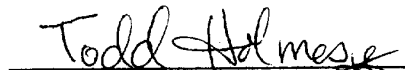
For multiple events such as this one, the Special Event process which includes evaluation, review, and sign-off by the Departments involved, will occur on a weekly (basis September 7 and 8 will be permitted in one Special Event permit, September 15 and 16 will be permitted in one Special Event permit, September 22 and 23 will be permitted in one Special Event permit, etc.).

Surcharge fees will be deposited in the Memorial Park Master Plan Capital Improvement Account (78453). Fees for direct costs will be deposited into the Park Facility Reservations Account 6627-101-765000. There will be no financial impact to the City.

Respectfully submitted,


CYNTHIA J. KURTZ
City Manager


Prepared by:


TODD HOLMES, Parks Planner
Parks and Natural Resources




BARBARA BARRETT, Special Events Coordinator
Planning & Permitting Dept.

Reviewed by:



JIMMY S. BERRYHILL, Administrator
Street Maintenance & Integrated Waste Management

Approved by:



C. BERNARD GILPIN, Director
Public Works and Transportation Department



ROD OLGUN, Planning Manager
Planning & Permitting Dept.

AUGUST 7, 2000

ATTACHMENT "A"

**PROPOSED IMPROVEMENTS TO MEMORIAL PARK
PASADENA LIVE CONCERT SERIES**

New outer roofing layer for the Gold Shell bandstand structure	\$ 4,500.00
Patch and repaint the Gold Shell bandstand structure	\$ 9,000.00
Removal of the telephone poles, overhead wires and light fixtures in the seating area.	\$ 6,000.00
Relocation of a Phoenix canariensis palm from the seating area to a location south of the bandshell	\$ 8,000.00
Removal of the two par course exercise stations located in the seating area. This equipment is in poor condition.	\$ 1,500.00
Pruning of trees at the edges of the seating area.	\$ 2,000.00
Removal of six Siberian elms that are in poor condition and one additional tree in the seating area of the amphitheater.	\$ 5,000.00
Planting of seven specimen trees (36" box) around the edges of the amphitheater and between the amphitheater and the adjacent apartments.	\$ 4,000.00
Repair and repositioning of the existing seats closer to the stage to maximize seating capacity.	\$ 9,700.00
The existing mulch in the seating area will be replaced with stabilized gravel. This material will provide a firm, safe surface for concert seating.	\$ 20,000.00
SUB TOTAL	\$ 69,700.00
50%* CONTINGENCY	\$ 34,850.00
TOTAL	\$ 104,550.00

*The high contingency fee is due to the fact that staff has not been able to verify the promoter's estimates for the cost of this work.



Ordinance Fact Sheet

TO: CITY COUNCIL

DATE: August 7, 2000

FROM: CITY MANAGER

SUBJECT: AN UNCODIFIED ORDINANCE OF THE CITY OF PASADENA SUSPENDING SECTIONS 9.36.220 AND 9.36.230 OF THE PASADENA MUNICIPAL CODE RELATING TO LIMITATIONS ON THE OPERATION OF AMPLIFIED SOUND AND NOISE SOURCES FOR SPECIFIED HOURS AND AREAS ON SEPTEMBER 7, 8, 15, 16, 22, 23, 27, 29, 30 AND OCTOBER 1 AND 5, 2000 (PASADENA LIVE AT MEMORIAL PARK).

TITLE OF PROPOSED ORDINANCE:

AN UNCODIFIED ORDINANCE OF THE CITY OF PASADENA SUSPENDING SECTIONS 9.36.220 AND 9.36.230 OF THE PASADENA MUNICIPAL CODE RELATING TO LIMITATIONS ON THE OPERATION OF AMPLIFIED SOUND AND NOISE SOURCES FOR SPECIFIED HOURS AND AREAS ON SEPTEMBER 7, 8, 15, 16, 22, 23, 27, 29, 30 AND OCTOBER 1 AND 5, 2000.

PURPOSE OF ORDINANCE:

This proposed ordinance is to provide an exemption from the Noise Ordinance for Pasadena Live's proposed series of eleven concert events featuring popular music and comedy, in the Gold Shell Amphitheater in Memorial Park. The enactment of this proposed ordinance is needed for these events to take place.

These events are to be considered by the City Council at its meeting held August 7, 2000 concurrently with this ordinance. This ordinance is being brought forth for first reading without prior Council direction at the request of the City Manager because of the impending deadlines.

REASON WHY LEGISLATION IS NEEDED:

The Noise Ordinance was enacted by ordinance and can only be suspended by an ordinance of the City Council.

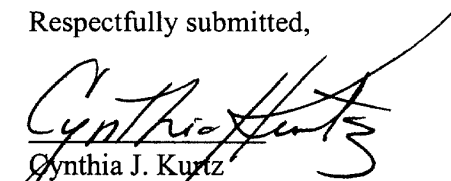
MEETING OF 8/7/2000

AGENDA ITEM NO. 9.A.4. &
7.B.2.

ENVIRONMENTAL IMPACT:

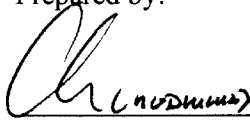
The Environmental Administrator has determined that the proposed suspension of the noise ordinance and Temporary Use Permit necessary to hold the limited concert series is categorically exempt from CEQA under CEQA Guidelines Section 15323, Normal Operations of Facilities for Public Gatherings. The Environmental Administrator has also determined that the proposed improvements are categorically exempt from CEQA under CEQA Guidelines Sections 15301 Existing Facilities and 15302 Minor Alterations to Land.

Respectfully submitted,



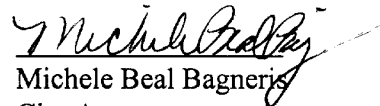
Cynthia J. Kurtz
City Manager

Prepared by:

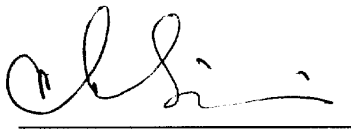


Nicholas George Rodriguez
Assistant City Attorney

Approved by:



Michele Beal Bagneris
City Attorney



C. Bernard Gilpin
Director of Public Works and Transportation

Introduced by Councilmember

ORDINANCE NO. _____

AN UNCODIFIED ORDINANCE OF THE CITY OF PASADENA SUSPENDING SECTIONS 9.36.220 AND 9.36.230 OF THE PASADENA MUNICIPAL CODE RELATING TO LIMITATIONS ON THE OPERATION OF AMPLIFIED SOUND AND NOISE SOURCES FOR SPECIFIED HOURS AND AREAS ON SEPTEMBER 7, 8, 15, 16, 22, 23, 27, 29, 30 AND OCTOBER 1 AND 5, 2000.

The People of the City of Pasadena ordain as follows:

SECTION 1. Sections 9.36.220 and 9.36.230 of the Pasadena Municipal Code are suspended from the hours of 7:00 p.m. to 9:31 p.m. on each of September 7, 8, 15, 16, 22, 23, 27, 29, 30, 2000 and October 1 and 5, 2000, for events in the Gold Band Shell at Memorial Park for which a valid license agreement or event permit is in force and effect.

SECTION 2. The City Clerk shall certify the adoption of this Ordinance and shall cause this Ordinance to be published in full text.

SECTION 3. This Ordinance shall take effect upon its publication.

Signed and approved this ___ day of _____, 2000.

Bill Bogaard
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by
the City Council at its meeting held _____, 2000, by the
following vote:

AYES:

NOES:

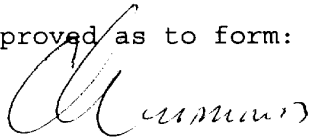
ABSENT:

ABSTAIN:

Published:

JANE L. RODRIGUEZ, CMC
CITY CLERK

Approved as to form:



Nicholas George Rodriguez
Assistant City Attorney