



AGENDA REPORT
SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: April 3, 2012

Agenda Item 6L
Approvals:
City Manager
Dept. Head
Attorney
Finance

Department: Beaches, Parks, and Recreation
Prepared By: Sharon Heider, Beaches Parks & Rec Director

Subject: USE OF BEACH FOR HOLIDAY PHOTO FUNDRAISER BY FRIENDS OF SAN CLEMENTE BEACHES, PARKS & RECREATION FOUNDATION.

Summary: The Friends of San Clemente Beaches, Parks & Recreation Foundation (Foundation) is a not for profit working to provide additional funding to support the City's Beaches, Parks & Recreation programs and facilities. In its ten-year history, the Foundation has raised monies to support the construction of the Vista Hermosa Sports Park and San Clemente Aquatic Center, the Surf and Skate Tournament, Beach Concerts, Holly Jolly Hoopla, provided scholarship funds for youth to attend programs, as well as providing the Cyber Café and Carnival which provide city wide benefit.

In an effort to increase their fundraising capability, the Department and Foundation have been working together to develop opportunities to both showcase the City's varied facilities as well as recognize the unique relationship between the Foundation and the City. The Foundation is requesting permission to use a small portion of the beach to place a Holiday setting with Sleigh for photographs. The Foundation will provide a photographer to take portraits in the Holiday setting with the Beach/Pier as a backdrop for a fee. Only because the Foundation is raising funds for the direct benefit of the Department does staff recommend that special access be granted to allow a two-day fundraising event on the beach.

At its March 13, 2012 meeting, the Beaches, Parks and Recreation Commission unanimously recommended Council approve the Foundation's request to use a portion of the beach and waive fees for a two-day holiday photo fundraising event.

Staff will work with the Foundation to determine the exact location near the pier, and dates in either November or December, which will provide the least impact to the public. Staff believes there would be little to no impact to beach use or Marine Safety operations.

Recommended Action: STAFF RECOMMENDS THAT Council approve the Foundation's request to use a portion of the beach and waive fees for a two-day holiday photo fundraising event.

Fiscal Impact: The \$40 Special event would be waived.

**Attachments:** Special Event Application.

**Notification:** Tom Wicks, President Friends of San Clemente Beaches, Parks & Recreation Foundation  
Fisherman's Restaurant (Bob Novello)  
Pier Bowl Merchant Association (Rick Anderson)

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**City of San Clemente**  
 Beaches, Parks and Recreation Department  
 100 N. Calle Seville, San Clemente, California. 92672  
 Phone: (949) 361-8264 Fax: (949) 361-8280

## SPECIAL EVENT APPLICATION

PLEASE SUBMIT COMPLETED APPLICATION AT LEAST 60 DAYS IN ADVANCE OF EVENT

We are happy to hear you are planning a special event in San Clemente. Special events build community spirit, promote worthy causes and celebrate important accomplishments. Planning a successful event involves cooperation and participation from many people, including City of San Clemente employees. City staff will begin reviewing your application once it is submitted to the Recreation Division. You can help speed the process along by completing your application in full before submitting it for review. Your application will be circulated to affected department and division heads who may contact you for clarification or additional information. Event organizers recognize the benefits of planning ahead and keeping everyone informed. This special event application will help you identify equipment, services and activities early in the planning stages to help minimize last minute surprises that could be a problem for you or your organization.

Applicant Information			
Contact Person:	Tom Wicks	Phone:	(949) 677-4554
Organization:	Friends of BP&R Foundation	Email:	wicksl@aol.com
Business Lic #		Address:	255 Vista Marina
Non-Profit ID#		City/Zip:	San Clemente, CA 92672

Event Information			
Event Name:	Holiday Photos at the Beach	Event Time:	noon to sunset (TBD by staff)
Event Type:	2-day photos taken at the beach for the holidays	Set-up Time:	1 hr.
Location:	a small section of the beach (TBD by staff)	Tear-Down Time:	1 hr
Event Date:	Nov./Dec. (TBD)	Attendance:	unknown
Sponsors:	BP&R Foundation and BP&R Dept.	#Staff/Volunteers:	5

YES	NO	TYPE OF ACTIVITY	YES	NO	SERVICES
<input type="checkbox"/>	<input type="checkbox"/>	Merchandise Retail Sales/Vendors	<input type="checkbox"/>	<input type="checkbox"/>	Temporary Structures/Stage
<input type="checkbox"/>	<input type="checkbox"/>	Trade/Craft Show	<input type="checkbox"/>	<input type="checkbox"/>	Tents/Canopies
<input type="checkbox"/>	<input type="checkbox"/>	Car Show	<input type="checkbox"/>	<input type="checkbox"/>	Portable Restrooms
<input type="checkbox"/>	<input type="checkbox"/>	Race TYPE:	<input type="checkbox"/>	<input type="checkbox"/>	Portable Fencing/Barricades
<input type="checkbox"/>	<input type="checkbox"/>	Athletic Competition TYPE:	<input type="checkbox"/>	<input type="checkbox"/>	Posting of Signs/Banners
<input type="checkbox"/>	<input type="checkbox"/>	Carnival/Mechanical Rides	<input type="checkbox"/>	<input type="checkbox"/>	Street Closure
<input type="checkbox"/>	<input type="checkbox"/>	Inflatable Rides/Bounce Houses	<input type="checkbox"/>	<input type="checkbox"/>	Traffic Control
<input type="checkbox"/>	<input type="checkbox"/>	Live Performance	<input type="checkbox"/>	<input type="checkbox"/>	Dumpsters
<input type="checkbox"/>	<input type="checkbox"/>	Live Animals	<input type="checkbox"/>	<input type="checkbox"/>	Portable Lighting
<input type="checkbox"/>	<input type="checkbox"/>	Parade on Street or Right-Of-Way	<input type="checkbox"/>	<input type="checkbox"/>	Security: <input type="checkbox"/> Police <input type="checkbox"/> Private Security
<input type="checkbox"/>	<input type="checkbox"/>	Alcohol Service/Sales	<input type="checkbox"/>	<input type="checkbox"/>	Electrical: <input type="checkbox"/> Generator <input type="checkbox"/> City
<input type="checkbox"/>	<input type="checkbox"/>	Food Service/Sales	<input type="checkbox"/>	<input type="checkbox"/>	Water: <input type="checkbox"/> Private Source <input type="checkbox"/> City
<input type="checkbox"/>	<input type="checkbox"/>	Amplified Sound/Music	<input type="checkbox"/>	<input type="checkbox"/>	Other:

A City representative will be responsible for processing your application through other potentially affected departments for their comments/requirements. The representative will approve, conditionally approve or deny your event application. Please communicate directly with the lead department's representative on all matters pertaining to your event, unless directed to do otherwise. Application should be submitted to the City of San Clemente Recreation Division, or electronically to Recreation@san-clemente.org. If you have any questions, feel free to contact the Division at (949) 361-8264.

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## EVENT SITE PLAN AND EQUIPMENT LAYOUT

- An outline of the event site including names of streets or areas surrounding the event. If the event involves a moving route (such as a parade or race), indicate a direction of travel.
- Any street closures and/or parking tow zones.
- Location of fencing, barriers or barricades.
- Location of all stages, platforms, tents, booths, event activities/attractions, etc.
- Cooking area configuration including flammable gases and barbecue grills
- Location of trash receptacles and recycling bins
- Location of portable toilets/restroom facilities
- Location of first-aid facilities
- Generator locations and/or source of electricity
- Placement of vehicles or trailers used for the event
- Anticipated parking locations (staff and attendees)
- Placement of promotional signs or banners

Scaffolding, bleachers, or other structures that might collapse and cause an injury will require a building permit from the City Building Department (949-361-6100). Flammable materials (e.g. tent) or cooking equipment will require the approval of the City Fire Department. Vehicles at beach/pier related events will be limited to those vehicles that need to transport heavy materials.

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### **WHAT IS A SPECIAL EVENT?**

A special event is any organized activity within the City that lasts for either 45 consecutive days or less, or 14 non-consecutive days or less in a year. Special events include, but are not limited to, amusement attractions, athletic events, parades, surfing contests, block parties, and carnivals. It does not include construction projects, funerals or activities that do not at least partially occur in or impact the public right-of-way, nor attract more than 20 people during any given 24-hour period.

### **BUSINESS LICENSE INFORMATION**

All event applicants must have a business license to hold an event. If you have a license that will be current during the time(s) of the event, please provide your business license number on your application. If you are a non-profit organization, a business license is still required. Business Licensing Department: (949)361-6166.

### **FOOD & BEVERAGE SALES/SERVICE**

The City does not issue permits for the sale of food, as related to the requirements of the Orange County Health Care Agency. **HEALTH CARE AGENCY NOTICE: All Orange County Health Department requirements must be adhered to for any food/beverage service at the event.** Events that involve the sales of and/or consumption of alcoholic beverages will require all individuals selling and/or serving alcoholic beverages to attend a Responsible Beverage Service Training Class. Orange County Health Department: (714)667-3600.

### **ENVIRONMENTAL REQUIREMENTS**

San Clemente is dedicated to protecting the environmental integrity of our beaches, neighborhoods, and open spaces. All special events must take adequate measures to comply with the following recycling and surface water quality protection requirements. Failure to abide by these requirements will result in the immediate revocation of the current special event permit and the denial of future special event applications.

**Recycling-** A site map showing placement of the recycling & trash receptacles must be approved by the City's recycling coordinator prior to obtaining a permit. The event applicant must provide the appropriate number of bins/receptacles, based on anticipated attendance and/or prior history. It is also mandatory to provide adequate containment for cardboard recycling for all vendors participating in the event. The applicant shall verify that all the vendors are notified of cardboard recycling prior to the event. Trash (only) containers should be left opened, weather permitting, during the event and closed and stored properly in the evenings. Please be advised that CR&R, the City's trash & recycling hauler, does not collect on Sundays. For assistance with recycling, please contact the City's Recycling Coordinator (949-498-9436).

**Expandable Polystyrene Foam (aka Styrofoam)-** Please be advised that the utilization and/or distribution of expandable polystyrene, commonly referred to by the tradename *Styrofoam*, food service products at any City-permitted event is strictly prohibited.

**Surface Water Quality-** The applicant is responsible for cleaning the permit area. Clean-up activities must be in compliance with all pertinent City codes, including the Storm Water Runoff Control Ordinance, Municipal Code Section 13.040. Trash, debris, food residue and other wastes must be removed at the conclusion of each day of the event. Any water used for cleaning purposes must be collected and disposed of appropriately. Please call the Utilities Department (949-366-1553) in advance for guidance. At no time shall waste or wastewater enter the City's storm drain system, which includes gutters and catch basins.

Please describe any street closures or requested variances or waivers from normal traffic, parking, laws, codes, etc. on your site plan. A City ordinance prohibits sound amplification before 7:00am or after 7:00pm in certain areas of the community.

### **INSURANCE REQUIREMENTS**

Please be prepared to provide insurance as described below. We suggest that you send a copy of this to your insurance agent to make sure he/she clearly understand our insurance requirements. Please send insurance certificate and endorsement for review directly to City of San Clemente, Recreation Division along with the name and phone number of a contact person. The certificate and endorsement may require 6 to 8 weeks to obtain, so plan accordingly.

**Requirement:** Comprehensive General Liability, personal injury and property damage liability, with minimum combined liability limits of One Million Dollars (\$1,000,000) per occurrence, and a maximum deductible of One Thousand Dollars (\$1,000) per occurrence. Each such policy of insurance shall:

- 1) Be issued by companies that hold a current policy holder's alphabetic and financial size category rating of not less than A-VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by City's Risk Manager for all coverage's.
- 2) Name and list as additional insured City, City's officers, employees, and agents and, if the City's Risk Manager so requires, the City of San Clemente Redevelopment Agency. An endorsement shall accompany the insurance certificate naming such additional insured.
- 3) Specify it acts as primary insurance and that no insurance held or owned by City (and, if applicable, the Redevelopment Agency) shall be called upon to cover a loss under said policy;
- 4) Contain a clause substantially in the following words: "it is hereby understood and agreed that this policy may not be canceled or materially changed except upon 30 days prior written notice to City of such cancellation or material change as evidenced by a return receipt for a registered letter;"
- 5) Cover the operations of applicant pursuant to the terms of this Agreement; and
- 6) Be written on an occurrence and not a claims made basis.

### **EVENT FEE SCHEDULE**

BLOCK PARTY: \$100.00 per day

#### BEACH EVENTS:

- 1) Exclusive rights for events utilizing more than 250 feet of water and/or event activities that are different than what is normally permitted under the City's surfing ordinance, with lifeguard assistance for profit and non profit organizations. (Lifeguard assistance is generally desired for larger events to assure the area is kept safe and clear of all non-participants).  
Fee: \$400 first day, \$250 second day, and \$150 each day thereafter
- 2) Exclusive rights, without lifeguard assistance limited to 250 feet or less of water.  
Fee: \$150 first day, and \$100 each day thereafter  
Non-Profit Organization Fee: \$30 first day, \$10 per day thereafter

PARK EVENTS: Park/Ball field rental fees will be charged when applicable.

ADDITIONAL SERVICES: Any additional services required by the City to facilitate a special event will be determined and billed to applicant as part of the approval process.

### **CHANGES TO APPLICATION**

Please make a copy of the application for yourself prior to submitting it to Recreation Division.

Should there be any substantive change to the event after submittal of the original application, please submit a written request for the change. This may be done by making the change on your copy of the application and submitting it after making another copy for yourself.

### **PARTICIPANT'S RELEASE FROM LIABILITY AND INDEMNIFICATION**

The City's Risk Manager may require participants in the event, and their parents/legal guardian, if they are under the age of 18, to sign the "Participant's Release from Liability and Indemnification" below. You may add other "persons, groups and entities" to the list on the lines provided prior to obtaining the applicant and parents' signatures. Should you wish to use your own form, you must submit a form that lists the City of San Clemente, and City of San Clemente Redevelopment Agency (if the event is in the pier redevelopment area) for approval by the City's Risk Manager. We recommend that you use the City's form since many of the applicant's forms are found to be unacceptable.

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**APPLICANT'S INDEMNIFICATION/WAIVER**

I agree, on behalf of myself as an individual and \_\_\_\_\_ ("Organization"), to indemnify, defend, and hold free and harmless the City of San Clemente, the Redevelopment Agency of the City of San Clemente and all of their respective agents, officers, and employees (collectively hereinafter referred to as the "City") from and against any and all loss or liability for claims or judgments against the City, including attorneys fees and costs, that may occur or arise as a result of the planning, preparation, or operation of the Special Event. However, neither I nor the Organization shall be obligated to defend, indemnify and hold free and harmless the City from any claim that may arise as a result of the City's sole gross negligence or willful misconduct. Furthermore, on behalf of myself and the Organization, I agree to waive any and all claims, costs, liabilities, expenses, or judgments against the City, including attorney fees and court costs, which may accrue to myself or the Organization as a result of the planning, preparation, or operation of the Special Event. Furthermore, I agree, on behalf of myself as an individual and on behalf of the Organization, as a condition of holding the Special Event within the City of San Clemente, to pay to the City the costs of any damage, injury, or loss of any public property which directly or proximately results from the occurrence of the Special Event. The payment for all such damage, injury, or loss shall be submitted the City within ten (10) days of receiving an invoice from the City listing the costs of such damage, injury, or loss to public property. I understand that this obligation is both an obligation of the Organization sponsoring the event as well as a personal obligation which I freely accept. I certify under penalty of perjury that I have the authority to bind the Organization sponsoring this Special Event to pay any and all such costs associated with the damage, injury, or loss of public property which directly or proximately results from the occurrence of the special event. I CERTIFY THAT I HAVE READ AND UNDERSTAND THE ABOVE INDEMNIFICATION/WAIVER.

\_\_\_\_\_  
As an individual and on behalf (must be at least 18 years of age)  
of \_\_\_\_\_  
(name of organization)

**PARTICIPANT'S RELEASE FROM LIABILITY AND INDEMNIFICATION**

I agree to waive and release the below listed persons, groups, and entities (hereinafter "Indemnities") from and against any and all claims, costs, liabilities, expenses, or judgments, including attorneys' fees and court costs arising out of my or my child's participation in the \_\_\_\_\_ (hereinafter "Event") or any illness or injury resulting therefrom, and hereby agree to indemnify and hold harmless the persons from and against any and all such claims whether caused by my negligence or otherwise, except for illness and injury resulting directly from the gross negligence or willful misconduct on the part of those Indemnities. I understand and agree that by signing this waiver I am freeing the Indemnities from any liability resulting from my or my child's participation in this Event. I recognize and have considered all the potential dangers that may attend my participation in the Event and, after careful consideration, have decided to accept those potential dangers. I understand that if I, or my child, is injured, this waiver will be used against me and anyone else claiming damages because of my or my child's injury in a legal action. I enter into this waiver on behalf of myself, my heirs, and executors. I also understand that no employee or agent is authorized to modify this waiver. I represent that I am familiar with the nature of the activities in which I or my child will participate and that I, or my child, am in good physical health and that I do not have physical or emotional conditions, past or present, of which I am aware, which would in any way affect my ability to participate in the Event. I CERTIFY THAT I HAVE READ AND UNDERSTAND THIS WAIVER AND RELEASE.

City of San Clemente  
City of San Clemente Redevelopment Agency

\_\_\_\_\_  
Date \_\_\_\_\_  
Signature of Participant  
Date \_\_\_\_\_

Parent of Legal Guardian must sign above, in addition to the participant, if the participant is under 18 years of age