



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Community Development and City Attorney

Prepared by: Chris Hess, Assistant Community Development Director; Genevieve Coyle, Assistant City Attorney

City Manager Approval: _____

TOPIC: CAMPING AT ALBERT PARK

SUBJECT: RESOLUTION PROHIBITING CAMPING ON CERTAIN PUBLIC PROPERTY: ALBERT PARK

RECOMMENDATION:

Adopt the Resolution prohibiting camping on certain public property: Albert Park.

EXECUTIVE SUMMARY:

Staff recommends that the City Council adopt a resolution prohibiting camping in Albert Park. There are presently more than 20 campsites at Albert Park inhabited by people experiencing homelessness. The campsites are causing adverse health and safety, and nuisance conditions in the park; are exacerbating conflicts with park users; and are obstructing public use of the property for its intended purpose as a community park and recreational facility. Seasonal openings of Albert Park’s ballfields, tennis courts, playground, and bocce ball court for community, school, Little League, Pacifics Baseball Club, and other recreational uses draw thousands of visitors to the park throughout the season. At this time, staff recommend a seasonal prohibition, for the months of March through October annually, based on the increased community uses and programmatic events at the park during these months of the year.

BACKGROUND:

Albert Park is one of three community parks in San Rafael, and the only one located within close proximity to the downtown corridor. Community parks are a classification in the General Plan of parks that primarily serve residents of San Rafael but attract users from multiple neighborhoods (as opposed to neighborhood parks, pocket parks, etc.) Albert Park is a community and family gathering place. It is home to a number of different recreation facilities, community amenities, and programmatic event spaces, including the San Rafael Community Center, Parkside Preschool and Children’s Center, Albert Park Baseball and Softball Stadium, Marin Bocce, Albert Park Tennis Courts, and Albert Park Playground:

- The San Rafael Community Center is a year-round facility that is home to the San Rafael Goldenaires, a senior organization. The community center offers daily programming for all ages,

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

the most popular of which are preschool and older adult programs as well as special event rentals for meetings, seminars, banquets, celebrations, fundraisers and more.

- Parkside Preschool and Children’s Center provides childcare programming year round, including school-year after school programs, full day preschool, and summer camps. The facility typically serves between 60-90 children daily throughout the year.
- Albert Park Baseball and Softball Stadium is a seasonal facility that typically runs each year from February/March through October, depending on weather. This year, the Softball Field opened on February 6 for practice for Marin Academy. The full facility is scheduled to open on March 13, with the season ramping up after the San Rafael Little League opening day event on March 18. The Stadium will see daily use from Little League and high school teams, with the professional Pacifics Baseball Club and other recreational softball and baseball leagues starting to use the facility in April and May. These games draw thousands of visitors to the park over the course of the season.
- Marin Bocce is a non-profit that runs a City-owned facility to provide seasonal bocce opportunities for the community. League play is scheduled to begin at the facility on March 21 for the Spring season. Marin Bocce runs an incredibly popular league program and serves hundreds of participants during the season.
- Albert Park Tennis Courts and Playground provide for self-directed recreational opportunities. These are used on a daily basis by families and individuals as well as for youth tennis lessons, with usage increasing in the Spring, Summer, and Fall.

Over the past several years, the City of San Rafael, like many cities throughout the state, has experienced a significant increase in the numbers of people experiencing homelessness and an increase in the establishment of campsites on public property. This was exacerbated beginning in early 2020 by the widespread business closures and loss of employment arising out of health orders and other governmental regulations imposed by the State and the County of Marin to help control the COVID-19 pandemic which led to financial hardships for many residents of the City and the County of Marin.

The City has responded to this increase in homelessness by investing in long-term solutions such as permanent supportive housing, and in programs to alleviate suffering and provide hope and support for residents experiencing homelessness. During this period the City:

- Contributed \$1.1M in Affordable Housing Trust Fund dollars to **190 Mill Street**, Homeward Bound’s project known as “Jonathan’s Place,” which is now open and occupied. Jonathan’s Place offers **32 permanent supportive housing SRO units** and **40 emergency shelter beds**, with onsite case management.
- Contributed \$2.1M in Affordable Housing Trust Fund dollars to **3301 Kerner Boulevard**, Eden Housing’s project which will provide **40 units of permanent supportive housing** upon completion in 2024. The City’s contribution leveraged Permanent Local Housing Allocation dollars and Low-Income Housing Tax Credits and provided key gap financing.
- Added the aforementioned projects to **the City’s portfolio of project-based permanent supportive housing units**, which includes housing by Buckelew Programs, the Center for Domestic Peace, Center Point, Inc., EAH, Homeward Bound, and St. Vincent de Paul.
- Supports and participates in the countywide **Coordinated Entry System**, which has housed 583 people since launch through various housing voucher programs.
- Led a multi-agency collaboration with Caltrans, the County of Marin, CHP, and multiple service organizations to serve the City’s **Service Support Area** between July 2021 and July 2022. Of

46 individuals who camped within the SSA, 31 have gained permanent housing to date. Participants receive **case management from St. Vincent de Paul**, which the City provides using its Encampment Resolution Fund (ERF) grant of \$522K awarded by the state.

- Continues to fund **case management services**, contributing \$260K to the County regional case management program.
- Continues to fund **free mobile showers and laundry services** weekly for people experiencing homelessness, provided by Dignity on Wheels (part of Project WeHope) and hosted by Ritter Center.
- Provides **SRPD's Community Mental Health Liaison** – Lynn Murphy, LMFT, working with each individual experiencing homelessness in the City to get them into shelter and coordinating various agency staff to address homelessness, camping, and housing retention.
- Added **staffing positions to create a Housing and Homelessness Division in the Community Development Department** to oversee homelessness response, develop policies and programs responding to community needs, increase and manage resources, and coordinate across agencies and jurisdictions. New positions include the recently-named Assistant Director of Community Development (Chris Hess) and the Homelessness Program Analyst (to be named this spring), plus Housing Programs Analyst Alexis Captanian.
- Continues to fund **Downtown Streets Team** in cleaning up the City with volunteers from the homeless and formerly homeless community, building leadership and employment skills while receiving case management and food and housing support.
- Has begun contracting with Petaluma People Services Center for a **three-year Alternative Response Program pilot**, replacing traditional law enforcement responders to 911 calls involving people in crisis with social workers, mental health counselors, or medical staff, expected to begin in late March/early April 2023.
- Conducted a **study session on an Interim Housing pilot**, and conducting a Request for Information (RFI) to identify private property owners that could host the pilot. Actively seeking funding partners and working to implement Interim Housing in San Rafael.
- **Applied on February 28, 2023 for an additional \$250K ERF grant** for case management for people experiencing homelessness and camping at Albert Park.

At Albert Park, there are presently more than 20 campsites inhabited by people experiencing homelessness. The campsites consist of tents or tent-like structures and personal belongings and property kept by the campers. Most of the campsites are collected in the north-central portion of the park, immediately adjacent to the Albert Park Baseball and Softball Stadium's north entrance and bathroom facilities, and directly behind the Community Center.

The City of San Rafael's ordinance, at Section 19.20.080(C) of the San Rafael Municipal Code ("SRMC"), prohibits camping in public parks as follows:

C. Camping.

- 1. No person shall camp, in any park, building or portion thereof, including the parking lot of any such area.*
- 2. No person shall use or store camp facilities or camp paraphernalia in any park, building, or portion thereof, including the parking lot of any such area.*
- 3. Nothing in this section shall be deemed to prohibit camping on all public property, including parks, when there is no alternative shelter available to the person camping; provided that the city manager may nevertheless absolutely prohibit camping at any time in one (1) or more*

specific parks where such prohibition is determined to be a threat to the public, health, safety, or welfare.

Beginning on February 21, 2023, the San Rafael Police Department noticed the occupants of existing campsites, and new campsites established after that date, at Albert Park in violation of the City's camping ordinance and other state laws. The occupants have been ordered to vacate and relocate immediately, but no later than March 13, 2023.

The Police Department's Community Mental Health Liaison, Lynn Murphy, and the City's contracted service providers have been performing daily outreach to the campers to connect them with available shelter and temporary storage options for their personal belongings to aid individuals with their relocations.

ANALYSIS:

As the City becomes aware of certain public properties where the presence of camping activities can be seen to significantly jeopardize the health, safety and welfare of the City's residents, workers, visitors, and properties, or to significantly impair essential City or public use of the property, the City may enforce its camping ordinance. The City may also expressly declare and confirm the absolute prohibition of camping activities on those properties.

The campsites at Albert Park are causing adverse health and safety, and nuisance conditions in the park. The San Rafael Police Department has responded to an increase in volume of calls for service related to sanitation, human waste, biohazards, and litter and refuse; abandonment of personal property; vandalism; theft from vehicles; physical fights amongst people experiencing homelessness; public alcohol consumption and intoxication; drug possession and use, including several reports of drug overdose, requiring medical transport to the hospital; obstruction of access points, including encampments located in the Community Center doorways, sidewalks, and pathways; smoking in areas affecting patrons of the center; campfires located next to the center; and disruptive behavior of encampment occupants, which have impacted meetings held at the Community Center by community groups.

The conditions associated with the campsites are exacerbating conflicts with park users. The City's Recreation and Childcare staff at the San Rafael Community Center and Parkside Preschool and Children's Center, receive frequent inquiries from community members and program participants expressing concern about the impact of the campsites and the safety of those trying to use the park site for recreational purposes. When accepting facility use requests for the Spring opening of the ballfields and other outdoor spaces, staff received reports from user groups that they would not be willing or were concerned about booking the fields because they fear for the safety of their players and event attendees as a result of the campers in the park.

In effect, the campers are obstructing public use of the property for its intended purpose as a community park and recreation facility. We also expect park user conflicts to increase significantly beginning this month in March if the camping conditions stay the same or worsen. Seasonal openings of the outdoor spaces and ballfields will draw thousands of visitors to the park in the Spring, Summer, and Fall months. The Albert Park Baseball and Softball Stadium opened in February for school uses and the Little League use will begin with a large event in mid-March. The State's COVID-19 state of emergency expired on February 28, 2023 and the City Council will be considering termination of the local state of emergency at this meeting on March 6, 2023. Termination of the emergency orders is expected to draw more visitors to the park and its event spaces in 2023 than the previous three seasons.

The 2019 federal court decision in *Martin v. City of Boise* (920 F.3d 584), and its progeny, have limited the ability of cities to enforce camping prohibitions. The *Martin v. Boise* case held that the City of Boise's criminal enforcement of its ordinance banning camping on all public property was unconstitutional when applied to individuals who had no alternative shelter available to them.

The City of San Rafael's camping ordinance, at SRMC Section 19.20.080(C), prohibits camping, or using or storing camp facilities or camp paraphernalia, in any park in the City. This ordinance complies with *Martin v. Boise* case law as nothing in the ordinance "shall be deemed to prohibit camping on all property, including parks, when there is no alternative shelter available to the person camping." However, the City may "absolutely prohibit camping at any time in one (1) or more specific parks where such prohibition is determined to be a threat to the public, health, safety, or welfare."

In consideration of the *Martin v. Boise* decision, the COVID-19 pandemic, and the intermittent lack of sufficient shelter for all of the unhoused persons living in San Rafael, the City has not been strictly enforcing existing limits on camping in and on some public properties. This was the case at Albert Park at which the number of campsites have grown, especially during the COVID-19 pandemic and winter months of 2022-2023. However, while *Martin v. Boise* dictates that a city without sufficient alternative shelter may not criminalize the act of sleeping somewhere on public property, the decision does not require a city to allow camping/sleeping everywhere on public property. The case law recognizes that there may be certain public properties where the existence of encampments will be at odds with the necessary use of the property by the public, or where they will pose unacceptable hazards and/or costs to a city's operations and to the public. In such cases, the City needs to be able to enforce a camping prohibition, and case law does not prevent the City from doing so.

Compelling circumstances exist at this time to prohibit camping in Albert Park. The campsites at Albert Park threaten the public, health, safety, or welfare of the community. In this case, the City needs to be able to enforce a camping prohibition. At this time, staff recommends the Council adopt a seasonal prohibition, effective from March through October of each year. The City Manager would have the authority to extend or modify these dates each year based on scheduled seasonal uses of the ballfields and other park areas.

FISCAL IMPACT:

This resolution has no fiscal impact. Enforcement of the City's camping ordinance and related services is an existing operational function of the City.

OPTIONS:

The City Council has the following options to consider on this matter:

1. Adopt resolution.
2. Adopt resolution with modifications.
3. Direct staff to return with more information.
4. Take no action.

RECOMMENDED ACTION:

Adopt the Resolution prohibiting camping on certain public property: Albert Park.

ATTACHMENTS:

1. Resolution

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL PROHIBITING CAMPING ON CERTAIN PUBLIC PROPERTY: ALBERT PARK

WHEREAS, the City of San Rafael's camping ordinance, at Section 19.20.080(C) of the San Rafael Municipal Code ("SRMC"), prohibits camping, or using or storing camp facilities or camp paraphernalia, in any park in the City; and

WHEREAS, the Ordinance further provides that "[n]othing in this section shall be deemed to prohibit camping on all public property, including parks, when there is no alternative shelter available to the person camping; provided that the city manager may nevertheless absolutely prohibit camping at any time in one (1) or more specific parks where such prohibition is determined to be a threat to the public, health, safety, or welfare"; and

WHEREAS, Albert Park is one of three community parks in San Rafael, and the only one located within close proximity to the downtown corridor, and is home to a number of different recreation facilities, community amenities, and programmatic event spaces, including the San Rafael Community Center, Parkside Preschool and Children's Center, Albert Park Baseball and Softball Stadium, Marin Bocce, Albert Park Tennis Courts, and Albert Park Playground; and

WHEREAS, seasonal openings of Albert Park's ballfields, tennis courts, playground, and bocce ball court for community, school, Little League, Pacifics Baseball Club, and other recreational uses draw thousands of visitors to the park throughout the season; and

WHEREAS, termination of the federal, state and local COVID-19 state of emergency orders is expected to draw more visitors to the park and its event spaces in 2023 than the previous 3 seasons; and

WHEREAS, there are presently more than 20 campsites at Albert Park inhabited by people experiencing homelessness; and

WHEREAS, the campsites at Albert Park are causing adverse health and safety, and nuisance conditions in the park; are exacerbating conflicts with park users; and are obstructing public use of the property for its intended purpose as a community park and recreational facility; and

WHEREAS, the San Rafael Police Department has responded to an increase in volume of calls for service related to the existing campsites, including sanitation, human waste, biohazards, and litter and refuse; abandonment of personal property; vandalism; theft from vehicles; physical fights amongst the campers; public alcohol consumption and intoxication; drug possession and use, including several reports of drug overdose, requiring medical transport to the hospital; obstruction of access points, including

encampments located in the Recreation Center doorways, sidewalks, and pathways; smoking in areas affecting patrons of the center; campfires located next to the center; and disruptive behavior of encampment occupants, which have impacted meetings held at the community center by community groups; and

WHEREAS, the City's Recreation and Childcare staff at the San Rafael Community Center and Parkside Preschool and Children's Center, receive frequent inquiries from community members and program participants expressing concern about the impact of the campsites and the safety of those trying to use the park site for recreational purposes. When accepting facility use requests for the Spring opening of the ballfields and other outdoor spaces, staff have received reports from user groups that they would not be willing or were concerned about booking the fields because they fear for the safety of their players and event attendees as a result of the campers in the park; and

WHEREAS, prohibiting camping at Albert Park is necessary to eliminate or mitigate a substantial risk or risks to the public health, safety and welfare of the City's residents, businesses, visitors and/or property, and such prohibition is permissible under applicable law, including SRMC section 19.20.080(C); and

WHEREAS, an absolute prohibition of camping in Albert Park for the months of March through October annually is appropriate based on the increased community uses and programmatic events at the park during these months of the year.

NOW, THEREFORE, the City Council of the City of San Rafael hereby resolves as follows:

1. No person shall camp or lodge at any time in any fashion, including in a tent, on the ground, in a motor home or in another vehicle, or use or store camp facilities or camp paraphernalia, as defined in the San Rafael Municipal Code, in Albert Park or in any portion thereof.

2. The forgoing prohibition shall be seasonal, effective March 1 through October 31 of each year; provided that the City Manager shall have the authority to extend or modify these dates each year based on scheduled seasonal uses of the ballfields and other park areas. This seasonal prohibition shall have no effect on the City's authority to enforce local and state laws, including but not limited to SRMC section 19.20.080(C), related to camping in Albert Park at any other time of the year.

3. City staff, including the San Rafael Police Department and Department of Public Works, shall have the authority to take all actions deemed appropriate to implement the prohibition established by this resolution.

I, LINDSAY LARA, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was regularly introduced and adopted at a regular meeting of the City Council held on Monday, the 6th day of March 2023, by the following vote, to wit:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

Lindsay Lara, City Clerk