



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jon Cicirelli

SUBJECT: See Below

DATE: July 29, 2024

Approved

Date:

8/7/24

COUNCIL DISTRICT: 8

SUBJECT: Service Delivery Evaluation and Public Private Competition Analysis for the Lake Cunningham Action Sports Park

RECOMMENDATION

- a) Accept the Service Delivery Evaluation and Public Private Competition analysis for the Lake Cunningham Action Sports Park.
- b) Adopt a resolution authorizing the City Manager or her designee to include the Lake Cunningham Action Sports Park in a Request for Proposal for long-term operations and maintenance of the water park and other Lake Cunningham Regional Park attractions.

SUMMARY AND OUTCOME

With the existing Lake Cunningham Regional Park water park lease expiring in September 2025, the Department of Parks, Recreation, and Neighborhood Services (department) is preparing to release a Request for Proposal (RFP) for the long-term operation and maintenance of the water park and other areas in Lake Cunningham. The solicitation of a long-term operator for the water park presents an opportunity to reconsider the operating model of other areas at Lake Cunningham, such as the marina and other underutilized areas. Based on the Service Delivery Evaluation and Public Private Competition Analysis, included in this memorandum as the **Attachment**, the department recommends including the Action Sports Park in the RFP. The Service Delivery Evaluation and Public Private Competition analysis is required due to the Action Sports Park having four or more full-time equivalent employees. Transitioning to a lease/revenue sharing model of operation of the Action Sports Park, which includes the Lake Cunningham bike and skate parks, is expected to increase cost effectiveness and service quality, as the selected provider would hold a level of expertise in Action Sports Park operations that the department has not sustained.

BACKGROUND

The City of San José's Lake Cunningham Regional Park in East San José includes a water theme park, marina, trail, amphitheater, playgrounds, parcourse with exercise equipment, meadow, picnic areas, and the Action Sports Park. Lake Cunningham Regional Park is one of the marquee destinations in the large inventory of parks, trails, and recreational facilities that the department oversees.

The Action Sports Park started taking shape when the Lake Cunningham Regional Skate Park opened to the public in April 2008. At 68,000 square feet, it is the largest skate park in California featuring the world's largest cradle, the tallest vert wall, and the largest full pipe. The Lake Cunningham Bike Park opened in April 2018. Wrapping around the skate park, the bike park has seven diverse riding zones to challenge riders of all skill levels. Combined and named the Action Sports Park, the skate and bike parks are open to skateboarders, scooter drivers, and bicyclists and offers something for the highly skilled as well as skaters and bikers of all levels to enjoy. The park also has a pro shop that provides concessions and rents helmets and equipment to ride.

The Action Sports Park had about 18,500 guests in 2019-2020, before being closed in March 2020 due to the COVID-19 pandemic. The park reopened to the public in May 2021, and in the 2022-2023 fiscal year, the Action Sports Park had a total attendance of 7,533 guests consisting of 2,793 member visits and 4,740 general admissions. As of summer 2024, the Action Sports Park's operating hours are Wednesday through Friday, 3:00 p.m. to 7:00 p.m. and Saturday and Sunday, 9:00 a.m. to 7:00 p.m. For the 2023-2024 fiscal year, the Action Sports Park had a total attendance of 4,658 guests consisting of 2,251 member visits and 2,407 general admissions.

On September 5, 2023, the prior long-term operator of the water park at Lake Cunningham, Palace Entertainment, unexpectedly notified City staff that it intended to terminate its lease agreement on September 30, 2023, 18 months before the lease's March 5, 2025 expiration. On February 27, 2024, the department received City Council approval to amend and assign the lease to another operator, California Dreamin' Entertainment, Inc., and gave feedback to staff on the preparation of a RFP for long-term operations. As the department developed a strategy for the procurement approach for this property, it became apparent that offering an opportunity for proposers to bid on not only the water park, but also other areas of Lake Cunningham Regional Park, could lead to better operations and maintenance, capital investment into the water park and lake water quality contributions for potential lake recreation, service to the community through a marquee destination and attractions, and positive financial results and sustainability. The procurement approach developed by staff includes soliciting proposals for the management of Lake Cunningham Regional Park, the Action Sports Park, the marina, the definition and use of open space on the property, and the management of the water park.

Per Council Policy 0-41 on Service Delivery Evaluation, the department is required to provide an evaluation of the impact of a new service delivery method when the change impacts four or more full-time equivalent positions and receive City Council approval before including it in a competitive procurement process. Council Policy 0-29, the Public Private Competition Policy, requires the department to address the transition of services, in this case from public to private, to ensure the City's and public's best interests are served. In February 2024, the department and the City Manager's Office of Employee Relations notified the affected unions that a service delivery evaluation was being conducted.

ANALYSIS

The department completed a business case analysis evaluating a new service delivery model for the management, operations, and maintenance of the Action Sports Park (see Attachment). This lease/revenue sharing model could generate revenue to the City that would be deposited in the Lake Cunningham Fund and reduce the personal services and non-personal/equipment expenses allocated in the General Fund to the Action Sports Park, which includes 6.65 full-time equivalent positions with a 2023-2024 budgeted cost of \$504,569 and non-personal/equipment resources of \$278,650, for a total of \$783,219 (Attachment, Tables 1 and 2).

As shown in Table 3 of the Attachment, the City's expenses for operating and maintaining the Action Sports Park were significantly higher than the revenue collected from the Action Sports Park since it opened in its current form with a skate and bike park, with cost-recovery levels ranging from 6.08% to 35.06% for the past five years. While the facility offers a variety of features that draw participation, including far-away visitors, the department has not been able to establish and sustain enough programming and revenue-generating activities to approach cost recovery. Revenue declined this past year due to remaining bike park damage from the 2023 winter storms and the dual slalom and slopestyle sections closure, pending upcoming specialized bike park repairs.

An action sports facility provides very specific recreational opportunities that require special knowledge on how to draw in and instruct new participants and keep experienced bike riders and skaters safe while they use the facility to its fullest. Successful operation of a facility, like the Action Sports Park, requires experienced instructors and staff. These instructors can bring a level of confidence and skill that helps participants develop proper techniques and avoid unnecessary risks. These instructors understand the unique challenges young action sports participants face and can provide the guidance and support needed to navigate the world of action sports. Qualified instructors would increase the quality and expansion of action sports programming. The department has struggled to hire experienced action sports

instructors within the City's job classifications and instructor hiring process. Although a lessee would have to adhere to the City's prevailing and living wage policies, it would have fewer restrictions and more dedicated time in hiring qualified action sports instructors.

For these reasons, staff has determined that changing service models and transitioning operations to an expert in this field is likely to yield more robust programming and increased total revenue, while also achieving cost efficiencies for the operation and City. Therefore, the department recommends that City Council authorize the City Manager or her designee to include the Lake Cunningham Action Sports Park in an RFP for long-term operations and maintenance of the water park and other Lake Cunningham Regional Park attractions.

EVALUATION AND FOLLOW-UP

If approved, the department will include the Action Sports Park in the RFP for long-term operations of Lake Cunningham Regional Park attractions. Once the RFP is concluded, staff will return to the City Council with the outcome of the bid process and recommended award. Lease negotiations will then commence with a goal of transitioning operations in 2025, with the timing dependent on the selected proposer's transition plan and the length of negotiations. The City Manager's Office of Employee Relations will notify bargaining units of any potential impacts.

COST SUMMARY/IMPLICATIONS

If approved, the department will include the Action Sports Park in the RFP for long-term operations of Lake Cunningham Regional Park attractions. If a proposer is identified that can manage the Action Sports Park under a lease/revenue sharing model, staff expects the resulting agreement to generate revenue for the City that will be deposited into the Lake Cunningham Fund. Similarly, any corresponding expenditures related to the agreement will be allocated in the Lake Cunningham Fund. Staff cannot predict the terms of a future lease and the amount of revenue it will generate. Should a long-term operator be identified, savings from the new service delivery model for the Action Sports Park will be re-evaluated as part of the 2025-2026 Proposed Operating Budget, including any staff resources necessary for the oversight of an additional lease agreement.

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COORDINATION

This memorandum was coordinated with the City Attorney's Office, the City Manager's Budget Office, and City Manager's Office of Employee Relations.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the August 20, 2024 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

Jon Cicirelli
Director of Parks, Recreation
and Neighborhood Services

The principal author of this memorandum is Shannon Heimer, Division Manager. For questions, please contact Shannon.Heimer@sanjoseca.gov.

Attachment: Service Delivery Evaluation and Public Private Competition Analysis for the Lake Cunningham Action Sports Park

Attachment

Service Delivery Evaluation and Public Private Competition Analysis for the Lake Cunningham Action Sports Park

Current Service Model

The Action Sports Park offers a skate park and a bike park. The skate park is California's largest at 68,000 square feet with world class features. The bike park is 8.5 acres and consists of seven diverse riding tracks with different difficulty levels. The Action Sports Park has served around 7,500 guests annually in recent years. Individuals can choose between an annual membership pass (\$149) or a general admission day pass (\$10) to enjoy the park. Current operating hours as of summer 2024 are Wednesday through Friday 3 p.m. to 7 p.m. and Saturday/Sunday 9 a.m. to 7 p.m. Additionally, the park offers school break and summer camp programming. Scholarships are available for those who qualify. The Action Sports Park currently has eight summer camp programs that run from 9 a.m. to 1 :30 p.m. For special events, the park is able to extend its hours of operation on Friday nights to 9:30 p.m. Guests have the option of using their own gear or renting from the facility.

The Action Sports Park is part of the Department of Parks, Recreation, and Neighborhood Services (department) Parks Division, in the Destinations, Events and Sports Unit (unit). The unit manages a wide variety of attractions and facilities across San José for residents and visitors to enjoy. Most of these locations are managed in-house and a few are managed through approved contractors. The facilities currently operated by a contractor are the City's golf courses (Los Lagos Golf Course, Rancho del Pueblo Golf Course, and San José Municipal Golf Course) and the water park at Lake Cunningham Regional Park (formerly known as Raging Waters). By having contractors manage these facilities, the City has served residents, saved the direct costs of operations (personal and non-personal/equipment), and some indirect costs of management and administrative support, as well as provided revenue streams for the City. The contracts with these operators require that they make improvements to the facilities at the operator's expense, hire their own staff, and ensure that the facility is maintained.

The City staffing assigned to the Action Sports Park's operations and maintenance in 2023-2024 is shown in Table 1.

Table 1: Action Sports Park Staffing Structure and Budgeted Costs for 2023-2024

Classification	FTE	Total Salary, Benefits, Retirement
Community Services Aide PT	0.30	\$8,700
Groundswoker	1.00	\$110,506
Maintenance Assistant PT	1.00	\$53,745
Recreation Leader PT	1.14	\$51,230
Recreation Program Specialist	1.00	\$122,877
Regional Park Aide PT	0.96	\$36,727
Senior Recreation Leader Teacher, PT	0.25	\$14,766
Senior Recreation Leader	1.00	\$106,018
Total	6.65	\$504,569

The City's 2023-2024 non-personal/equipment budget for the Action Sports Park is in Table 2.

Table 2: Action Sports Park Non-Personal/Equipment Budgeted Costs for 2023-2024

Cost Category	Total Cost
Supplies and materials	\$93,193
Professional and consultant services	\$84,614
Scholarships	\$70,000
Utilities	\$30,843
Total	\$278,650

Table 3 compares the budgeted operations and maintenance expenses for the Action Sports Park to the actual revenue generated for the most recent five fiscal years.

Table 3: Action Sports Park Operations and Maintenance Budget and Actual Revenue for Fiscal Years 2019-2020 through 2023-2024

Fiscal Year	Total Budget	Actual Expense*	Actual Revenue	Cost Recovery**
2019-2020	\$862,916	\$820,656	\$287,749	35.06%
2020-2021	\$749,012	\$613,187	\$37,297	6.08%
2021-2022	\$920,288	\$925,858	\$223,438	24.13%
2022-2023	\$825,397	\$906,618	\$121,309	13.38%
2023-2024	\$783,219	\$1,002,447	\$104,966	10.47%

* Part-time staffing expenses exceeded budget due to a change in the operational staffing model to enhance staff coverage of the park and ensure user safety while using the amenities.

** Overhead costs are excluded from the cost recovery calculation.

New Service Model Concept

The department recommends that the City proceed with exploring a lease/revenue sharing model for operations and maintenance of the Action Sports Park conducted by a third-party operator. An operator selected through a Request for Proposal (RFP) would be vetted for experience in operating sports and recreation facilities. The structure of the RFP and contractual deliverables would ensure that the Action Sports Park would achieve the desired program and operational growth while also maintaining community access through free and discount admission and programs. Due to its specialized expertise, a contracted operator has the potential to maximize attendance and revenue streams while minimizing costs. Based on other recent revenue-sharing lease agreements overseen by the department, staff estimates annual lease revenue to the City from the Action Sports Park will be between \$36,000 to \$60,000 or more, depending on proposals and performance as explained below. This excludes any expenditures to manage the contract or other costs.

Tables 4 and 5 below provide staff's projection of the attendance and operator revenue possible under a lease/revenue sharing model. Table 4 provides staff's scenario analysis for annual visitation under a lease/revenue sharing model if operating hours increase and admissions are slightly higher than the current levels (Scenario 1), return to pre-pandemic numbers with a small increase (Scenario 2), or increase to more than twice pre-pandemic numbers (Scenario 3). Staff estimates that the Action Sports Park can have weekly visitation of about 700 guests and annual visitation of more than 24,000 guests if it returns to pre-pandemic activity levels. Table 5 translates that annual visitation into a model for the operator's revenue under a lease/revenue sharing model. Staff estimates that an operator might earn more than \$600,000 in gross revenue if attendance improves and the facility achieves higher utilization.

Table 4: Model for Annual Visitation under a Lease/Revenue Sharing Model with Improved Attendance and Hours of Operation

	Scenario 1	Scenario 2	Scenario 3
Guests per operating hour*	6	18	36
x Operating hours per week	38	38	38
= Guests per week	228	684	1,368
x Operating weeks per year (fair weather)	36	36	36
= Estimated guests per year	8,208	24,624	49,248

* This is an average with peak days/hours seeing more guests and slower days/hours seeing fewer. The park has an operational capacity of 700 guests at any point.

Table 5: Model for Operator Revenue under a Lease/Revenue Sharing Model with Improved Attendance and Hours of Operation (Scenario 2)

	Amount	Cost	Revenue
General Admissions*	17,237	\$14**	\$241,318
Annual Memberships***	1,055	\$149	\$157,195
Pro shop sales/rentals****			\$60,143
Facility Rentals	6 events	\$15,000	\$90,000
Summer Camps	24 kids for 8 weeks	\$200 per week	\$38,400
Saturday Workshops	12 kids for 24 weeks	\$50 per week	\$14,400
Total Revenue			\$601,456

* Assumes general admissions represent 70% of guests based on historical and industry patterns.

** Staff determined that the cost of \$14 is comparable to the rates of other local attractions.

** Assumes members represent 30% of guests in line with other destinations like Happy Hollow Park & Zoo, and they visit seven times per year on average consistent with historical patterns.

**** Assumes pro shop sales and equipment rentals make up 10% of total revenue.

Assuming the City receives 6% of total revenue, the same percentage as currently earned from the water park contract, the revenue to the City would be approximately \$36,000, which excludes any expenditures incurred to earn it. If the City receives 10% of total revenue, as it does under the lease for municipal golf courses, revenue to the City is estimated to be \$60,000.

The estimated lease revenue to the City from Scenario 2 annual visitation is less than pre-pandemic City revenue generation, however, the lease/revenue sharing model would provide this source of revenue for the City while reducing costs for the operation of the Action Sports Park, budgeted at \$783,219 in 2023-2024, and allowing those resources to be reallocated in a future budget process.

Service Delivery Evaluation Decision-Making Criteria

1) What is the potential impact of public employees currently providing the service and on the workforce in general with respect to issues such as workload, productivity, diversity, and availability of measures to mitigate negative impacts? Impacts will specifically be evaluated relative to the City's core values (Integrity, Innovation, Excellence, Collaboration, Respect, Celebration.) Identify planned steps to maximize alignment of a new service model with the City's values (Integrity, Excellence, Collaboration, Respect, Celebration.)

This proposal will impact the employees currently in the positions referenced in this evaluation, which will cause the employees to be redeployed and/or have their positions reevaluated in future budget processes.

The service delivery evaluation indicates that a contracted service could provide the most cost-effective service model for the public while also increasing service levels at the Action Sports Park. Through measurable performance indicators outlined in a RFP procurement, the department will monitor and ensure deliverables that meet the City's core values as well as the guiding principles of the department's long-term strategic plan ActivateSJ (Stewardship, Nature, Equity and Access, Identity, and Public Life.)

2) Is it practical for City staff to provide the proposed service versus being precluded by proprietary, supply chain, or other factors?

As City staff currently operates and maintains the Action Sports Park, it can be acknowledged that City staff can provide the service at current levels. However, City staff has been unable to expand and improve services or operate the Action Sports Park in a cost-recovery or effective manner. The Action Sports Park's cost recovery rate was 10.47% in 2023-2024, meaning 89.53% of operating costs were subsidized by the General Fund. Additional staff time would be needed to support additional operating and programming hours and create and market special events that would increase general admission and tournament and rental revenue. The City has not been able to attract the professional expertise and industry talent to operate the Action Sports Park in a manner that meets the City's quality standards and expands operations to the service levels desired by the public.

3) Is there limited market competition for the service or other reasons that the City directly providing the service would protect public interests from default or service interruption?

The sports recreation industry, which includes water parks, adventure parks, and bike and skate parks, is a well-established industry. Because it requires specialized knowledge to successfully operate all aspects of an action sports park from safety to programming and sales, it would be in the public interest for the City to provide oversight to an operator with the professional experience to safely and competitively operate and program the Action Sports Park.

4) Is there currently a City staff unit capable of and interested in developing a managed competition proposal?

The existing staff who operate the Action Sports Park have been informed and are undecided if they are capable of and interested in developing a managed competition proposal.

5) Is the workload sufficiently steady to support a permanent workforce versus episodic?

The Action Sports Park is open to the public all year, however, as an outdoor facility, it is closed during times of significant rain and attendance is seasonal in nature. Rain events allow for a baseline level of full-time staff to address administrative duties, such as program preparation, marketing, and supply inventory. During fair weather months, additional seasonal staff are required to operate the park, implement programming and events, and market the park to draw visitors.

6) Is a City interest served by being a long-term direct service provider, such as avoiding future costs?

There is no significant City interest in being a long-term direct service provider. The City has tried for multiple years to attract industry knowledge to operate the facility in a cost-effective manner while increasing attendance and facility use. To date, the facility has not reached its full use potential. The City and public interest in affordable and accessible action sports for the enjoyment of residents could be ensured through the RFP's structure and contractual requirements placed on the operator, similar to those in the City's lease for municipal golf courses.

7) Is the service model likely to improve the quality, customer satisfaction, and/or responsiveness for the same or lower cost, with particular focus on the General Fund?

Yes, an operator with industry expertise can significantly improve customer service, refine program offerings, develop and implement community events, host tournaments, and increase attendance. An operator would also be unhindered by City purchasing rules to nimbly operate a pro shop that offers a range of sports-related equipment and supplies. The department has worked toward improving customer service, responsiveness, and service offerings for many years without significant increases. An operator is likely to have multiple facilities and be able to leverage similar resources to reduce overhead and expand the operating model. These aspects of service would also be managed through contract service requirements and deliverables (i.e., monthly and annual revenue and account reports, customer surveys, approval, and oversight of community-offered events and community access.)

8) Do local, state, and federal laws regulations and funding guidelines restrict the method of service delivery, and if so, can these restrictions be changed?

There are no restrictions on the method of service delivery.

9) What risks to the City and public do the service delivery models present and how would these risks be managed?

The clearest risks to the City or the public through a lease/revenue sharing model would be a loss of community access if the operator were to make the facility unaffordable or a reduction in facility maintenance if the operator were to do less maintenance than required. These risks would be managed with contractual obligations and City staff oversight of the contract as the department has done with other lease agreements, such as the lease for municipal golf courses.

10) Is the City able to cost effectively maintain the specialized skills, technology, and equipment needed for the service?

No, the City does not have the specialized skills for maintaining the action bike trail and has to navigate procurement processes to hire companies with the specialized skills and equipment to conduct the necessary maintenance. The City has not been able to attract the professional skillset necessary to fully achieve the desired model of operation.

11. Does the service delivery model maximize the leveraging of prospective non-City resources, such as sponsorships and donations?

The lease/revenue sharing model would maximize the leveraging of prospective non-City resources. A private operator would have less restrictions and more outreach resources in obtaining sponsorship and donations from the action sports industry compared to the City.

It would also enhance the ability for the necessary specialized vendors with technical skills to be procured for the maintenance and operation of the Action Sports Park. A private operator would be able to enter into collaboration more quickly with other industry partners and vendors to maximize programming from workshops to tournaments and expand services for the general public.

12. Is there management and administrative capacity to support the in-house workforce or contract oversight needed?

The lease/revenue sharing model requires staff time to provide contract oversight and administration of deliverables. Staff resources would need to be identified for this to be done without reducing oversight to other leases and contractors, which could come from the existing workforce assigned to the operation of the Action Sports Park.

Organizationally, the department has attempted to provide additional attractions industry expertise to the Action Sports Park by reorganizing it under the Destinations, Events

and Sports Unit of the Parks Division. This unit has managers experienced in attraction management, but has no direct experience with an action sports facility. Additional attention was focused on the business and customer service model, and although strides were made in customer service, without specific industry knowledge of action sports operation and programming, little progress has been achieved in the expansion of service offerings, growth in attendance, and facility maintenance.

An action sports facility provides very specific recreational opportunities that require special knowledge on how to draw in and instruct new participants and also keep experienced bike riders and skaters safe while they use the facility to its fullest. Successful operation of a facility, such as the Action Sports Park, requires experienced instructors and staff. These instructors can bring a level of confidence and skill that helps participants develop proper techniques and avoid unnecessary risks. They understand the unique challenges young action sports participants face and can provide the guidance and support needed to navigate the world of action sports. Qualified instructors would increase the quality and expansion of action sports programming. The department has struggled to hire experienced action sports instructors within the City's job classifications and instructor hiring process, especially with many competing department hiring priorities over a small and specialized function like the Action Sports Park that needs dedicated and focused efforts. Although a lessee would have to adhere to the City's prevailing and living wage policies, it would have fewer restrictions and more dedicated time in hiring qualified action sports instructors.

Summary

Based on the Action Sports Park's unique operational and maintenance needs, the City's ability to successfully manage contracted services, and the availability of industry experts who can operate the Action Sports Park, and with the City's core service values in mind, it is recommended that the City Council approve the inclusion of the Action Sports Park in the RFP for long-term operations of Lake Cunningham Regional Park attractions. This will expand Action Sports Park services for the public while providing revenue for the City and allowing existing resources to be reallocated in a future budget process.

Public Private Competition Policy (Policy 0-29)

Council Policy 0-29, the Public Private Competition Policy, states that City employees shall have an opportunity to implement readily achievable improvements. The department has endeavored to make readily achievable improvements for multiple years within the current service model and has identified that additional investment of staffing would be needed in order for an in-house model to be successful. Because of this, the department recommends that the City Council not implement a managed competition process. In the event that such a process is pursued, the department would be required to provide staff training in accordance with the policy, which would preclude the Action Sports Park from being included in the same RFP as the water park and other Lake Cunningham Regional Park attractions.