



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 3/21/2017

Agenda Placement: 6P

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors

FROM: Steven Lederer - Director of Public Works
Public Works

REPORT BY: Rick Marshall, Deputy Director of Public Works - Engr - (707) 259-8381

SUBJECT: Status report on Special Events/Filming ordinance Second reading and adoption- update from 2016

RECOMMENDATION

Second reading and adoption of an ordinance amending portions of Chapter 10.24 (Special Events on Public Roadways) of the Napa County Code, incorporating minor changes that were identified since the major update that was adopted in 2016, and approval of the recommended process for receiving and responding to complaints about special events under permit.

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

EXECUTIVE SUMMARY

On February 9, 2016, the Board of Supervisors adopted major changes to Chapter 10.24 of the Napa County Code, which governs the conduct of special events and filming activities on County roads. At that time, the Board directed staff to monitor the effect of these changes and report back with a status report and recommendation for any additional needed revisions. A status report was prepared and presented to the Board on March 7, 2017. Based on the experiences of the past year, minor ordinance changes were recommended dealing with date reservations, application sequence, fee waivers and ordinance exemptions. At the March 7 public hearing, the Board approved the first reading of the ordinance with a modification to the staff recommendation to allow fee waivers for event organizers which are 501(c)(3) or 501(c)(4) local non-profits, or which designate a 501(c)(3) or 501(c)(4) local partner, rather than all categories within the IRS Code in section 501(c). This change has been incorporated into the ordinance which is now before the Board for the second reading and final adoption. Approval of the ordinance will amend Chapter 10.24 (Special Events on Public Roadways) of the Napa County Code to reflect the changes outlined in the attached ordinance.

In addition, the Board reviewed the proposed process for responding to complaints received about special events

subject to these permits, which is not a function of the ordinance itself. The Board directed staff to modify the proposed process and related portions of the ordinance so that events with a verified complaint would be on "probation" for up to two years, and if the complaint is not satisfactorily resolved during that period, then the special event would be precluded from securing a permit during the next calendar year. The proposed Complaint Process has been modified according to the Board's direction and is attached to this staff report for the Board's information.

FISCAL IMPACT

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| Is there a Fiscal Impact? | Yes |
| Is it currently budgeted? | No |
| What is the revenue source? | Funds collected in application fees will offset expenses incurred by staff in the Roads Division of Public Works, as well as the Emergency Medical Services Division of the Health and Human Services Agency. |
| Is it Mandatory or Discretionary? | Discretionary |
| Discretionary Justification: | The proposed revisions to the ordinance governing the conduct of special events and filming activities on public roadways will improve safety and quality of life for participants, as well as residents and businesses in Napa County. Additionally, the proposed changes will allow Public Works to move towards full cost recovery related to services provided for special event permits such as application administration and course preparation by Roads crew staff prior to the event. |
| Is the general fund affected? | No |
| Future fiscal impact: | The Department of Public Works, including its Roads Division, will have a fee structure that allows for full cost recovery. |
| Consequences if not approved: | Existing regulations, Chapter 10.24 of the Napa County Code, will remain in effect. |
| Additional Information: | |

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

Chapter 10.24 of the Napa County Code establishes the requirements for conducting special events on public roadways under the jurisdiction of Napa County. On February 9, 2016, the Board of Supervisors adopted Ordinance No. 1411, which made major changes to these requirements. At that time, the Board directed staff to monitor the effect of these changes and report back with a status report and recommendation for any additional needed revisions. A status report was prepared and presented to the Board on March 7, 2017. Based on the experiences of the past year, minor ordinance changes were recommended dealing with date reservations, application sequence, fee waivers and ordinance exemptions. At the March 7 public hearing, the Board approved

the first reading of the ordinance with a modification to the staff recommendation to allow fee waivers for event organizers which are 501(c)(3) or 501(c)(4) local non-profits, or which designate a 501(c)(3) or 501(c)(4) local partner, rather than all categories within the IRS Code in section 501(c). This change has been incorporated into the ordinance which is now before the Board for the second reading and final adoption. Approval of the ordinance will amend Chapter 10.24 (Special Events on Public Roadways) of the Napa County Code to reflect the changes outlined in the attached ordinance.

In addition, the Board reviewed the proposed process for responding to complaints received about special events subject to these permits, which is not a function of the ordinance itself. The Board directed staff to modify the proposed process and related portions of the ordinance so that events with a verified complaint would be on "probation" for up to two years, and if the complaint is not satisfactorily resolved during that period, then the special event would be precluded from securing a permit during the next calendar year. The proposed Complaint Process has been modified according to the Board's direction and is attached to this staff report for the Board's information.

March 7, 2017 Original Staff Report

Following is the Background section of the staff report from March 7, 2017. Changes made during the public hearing that date are indicated with *italic print*.

Background

The ordinance changes adopted in February, 2016 included the following topics:

1. Frequency of events/impacts to arterial roadways
 - a. Events are now limited to a maximum of two per month, and a maximum of one per weekend, on any arterial roadway. A second event may be permitted on the same date as another, if the two combine to a total of less than 3,000 participants.
 - b. Full closure of any arterial roadway is only permitted for events with at least 1,000 participants.
2. Date reservation system -- the ordinance established the following sequence for permit applications:
 - a. Written request for date up to one year in advance
 - b. Deposit six months in advance
 - c. Complete application including remaining fee ninety days in advance
3. Notification requirements -- organizers must place message boards along the event course for all events (not just those with road closures).
4. Fees
 - a. Fees for special events are now configured with a "base fee" and an "hourly fee" representing different parts of the application review process.
 - b. Waivers may only be granted for events in which a minimum 25% of net revenue goes to a qualifying local organization.
5. Emergency Medical Services -- these requirements have been clarified.
6. Route cleanup -- organizers are required to post a "cleaning deposit" to ensure the course is left in good shape.
7. Filming permits -- this activity has been consolidated into the rules governing special events.
8. Relay events -- these are no longer permitted on State Route 29 or Silverado Trail north of Trancas Street.
9. Impacts to agricultural activities -- applicants must commit to limit the impact of their events on agricultural activities.

Experiences During 2016

The details of special event permit activity during the past year are provided in the attached report. In general, applications were processed for 26 events with good results and few complaints from the public overall. Reservations for dates in 2017 have started out strong, with 21 events requesting dates already, one of which is a new event.

Proposed Changes

During the year since the Board's actions, the conduct of special events and the processing of their applications has gone smoothly. It is recommended to retain all the changes that were made in February, 2016. In addition, staff has identified some additional modifications which are recommended with today's action, for improved customer service or clarification of requirements.

1. Date reservations -- The 2016 revisions included a provision that applicants may submit a written request to reserve a date, up to one year in advance. The request must include the date requested, a map depicting the event course, and the expected number of participants. There are also new limitations on the frequency of events, as noted above. During the outreach to stakeholders which led to the adoption of the 2016 revisions, there was a discussion that in the application of these frequency limitations, priority would be given to recurring events on the basis of seniority. However, the application of this during the past year identified an unintended possibility. If new or less-senior events reserve dates early in a given month, exactly one year ahead of the dates they are requesting, a more-senior event later in the month may not be able to comply with the frequency limitations if it has to wait until exactly one year in advance of its desired date. Staff is recommending a change to create a reservation "window" so that any dates during a given month may be requested during the first seven days of that month, during the previous year. After the seven-day window, staff will sort out the seniority of the requests and assign dates which comply with the frequency limitations. Other date requests can still be submitted after this seven-day window, and will then be handled on a first-come, first-served basis.
2. Application sequence -- The 2016 revisions created a three-step process, as noted above (date request, fee deposit, complete application). Staff has identified that separating collection of the fee into two payments has created an additional administrative burden without significant benefit. It is proposed to eliminate the initial deposit at the 6-month point and simply require a complete application and complete fee payment no later than 90 days in advance of the event.
3. Fee waivers -- One provision of the 2016 revisions dealt with the requirements to qualify for a waiver of the fee. The ordinance states that an applicant must be a local 501(c)(3) organization, or designate a local 501(c)(3) partner, in order to qualify. During the past year, it was observed that at least one longstanding event which has routinely qualified for a fee waiver is conducted by an organization which is a 501(c)(4), not a 501(c)(3). The IRS defines a total of 29 categories of tax-exempt non-profit organizations in Section 501(c) of the Internal Revenue Code. Staff feels that it is consistent with the Board's action in 2016 to include any bona fide tax-exempt non-profit organization, as long as it is locally based, and proposes to modify the ordinance to simply specify "501(c)" as qualifying. It is also recommended to add language to clarify that all organizations, even those which qualify for a waiver of the fee, are required to post the fully-refundable "cleaning deposit," which ensures that the event course is left free of litter, debris or damage. *On March 7, 2017, the Board directed staff to modify this provision to allow fee waivers for event organizers which are local 501(c)(3) or 501(c)(4) organizations, or which designate a 501(c)(3) or 501(c)(4) local partner, rather than all categories within the IRS Code in section 501(c). This change has been incorporated into the ordinance which is before the Board for second reading and final adoption.*
4. Blackout dates -- County staff has worked together with the California Highway Patrol to identify a list of dates with regional-scale events which pose a substantial burden on the workload of law enforcement, emergency medical and other essential services. No permits are issued on these dates, which include Bottle Rock, Auction Napa Valley, major holiday weekends and events at the Sears Point raceway in neighboring Sonoma County. During the past year, staff has identified the need to add one more item to this list -- the Safeway Open PGA Golf Tournament. The list of blackout dates is not a function of the ordinance so no ordinance revision is needed.
5. Complaint process -- the Board's action in 2016 included direction to staff to develop a formal process for responding to complaints received regarding the conduct of special events and filming activities. A proposed process has been developed and is included as an attachment to this staff report. *On March 7, 2017, the Board directed staff to modify the proposed process so that events with a verified complaint would be on "probation" for up to two years, and if the complaint is not satisfactorily resolved during that period,*

would be banned for one year. The proposed Complaint Process (which is not a function of the ordinance itself) has been modified, along with Section 10.24.070(J) of the ordinance, according to the Board's direction and the revised language for both documents are attached to this staff report.

6. Ordinance exemptions -- Section 10.24.010 of the Napa County Code includes definitions for terms which are used throughout the rest of the chapter. One item, which was not changed by the Board's action in 2016, was the definition of Special Event itself, which included an exemption for certain events "for which there are expected to be more than 50 participants, but for which participants are required to comply with the California Vehicle Code as it applies to persons riding a bicycle upon a highway." Such events are subject to two following sections of the ordinance, which deal with insurance requirements and a "hold harmless" agreement, and organizers are required to notify Public Works in writing at least 30 days in advance of such an event. During the past year, three event organizers notified staff that they intended their events to be considered eligible for processing under this exemption, the first time such a request has been made since this provision was added to the ordinance many years ago. As staff proceeded to work on these requests, it was identified that there is an internal conflict in the wording of the exemption. The insurance and hold harmless requirements both refer to the issuance of a permit, so it is not clear how to engage these requirements in cases where an event is exempt from a permit. Staff recommends modifying the ordinance to delete the "exemption" language from the definition. All events benefit from going through the permit process, because the process includes a mechanism in which Public Works' agency partners, such as CHP and EMS, are aware of the activities in their service areas and can ensure the safety of the public and all event participants. When events do not go through the permit process, it is not possible to keep all stakeholders informed and thereby enable them to coordinate the provision of their services.
7. Other -- Some very minor edits are proposed to clean up wording and address gender-specific language, where this need has been identified by staff.

Feedback on Proposed Modifications

Staff provided the attached update report to stakeholders during the Fall of 2016. This group includes event organizers, agency partners, representatives of local organizations (such as the agricultural organizations) and others who have expressed interest in this topic over the past couple years. Responses were received from the Davis Bicycle Club. Their correspondence is attached to this staff report. Public Works staff has reviewed the comments received and offers the following responses:

1. Davis Bicycle Club
 - a. Exemption language in definitions -- for the reasons cited above, staff feels it is important for all events to go through the permit process. Staff does not support the change to the ordinance definition language which is requested here.
 - b. Fee waivers -- the request is to waive fees for events which meet certain location criteria or seniority criteria. All events, regardless of location or seniority, require staff time in the review of the application and in the preparation of the event course. Waivers are available for non-profit organizations that are local to Napa County, but this would not include the Davis Bicycle Club. Staff feels that the current system of fees and fee waiver criteria is consistent with the direction the Board has provided and does not recommend any change in this area.

On March 7, 2017, the Board opened the public hearing and received public comment. After closing the public hearing, the Board discussed the ordinance and read non-substantive changes into the record. The Board then introduced the ordinance, read the title, waived reading the balance of the ordinance as modified and declared its intention to adopt the ordinance at the next regularly scheduled hearing or as soon thereafter as possible. The ordinance is now before the Board for formal adoption.

SUPPORTING DOCUMENTS

A . Complaint Process

B . Ordinance (Final Version)

CEO Recommendation: Approve

Reviewed By: Bret Prebula