



# CITY COUNCIL AGENDA REPORT

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MEETING DATE: APRIL 19, 2005

ITEM NUMBER:

**SUBJECT:** REQUEST TO APPEAL DECISION OF PARK AND RECREATION COMMISSION REGARDING THE USE OF TEMPORARY, PORTABLE LIGHTS

**DATE:** APRIL 4, 2005

**FROM:** ADMINISTRATIVE SERVICES/RECREATION DIVISION

**PRESENTATION BY:** JANA M. RANSOM, RECREATION MANAGER

**FOR FURTHER INFORMATION CONTACT:** JANA RANSOM, RECREATION MANAGER  
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## **RECOMMENDATION:**

Conduct a public hearing and either uphold, reverse or modify Parks and Recreation Commission's decision to accept the revised Temporary Portable Lights Policy but disallow use of temporary portable lights at Kaiser School.

## **BACKGROUND:**

On March 23, 2005, the Parks and Recreation Commission voted four to zero to approve the revised Temporary Portable Lights Policy but to no longer allow the use of temporary portable lights at Kaiser School (after March 31, 2005). On March 28, 2005, applicant appealed the decision to City Council. Staff recommendation to the Parks and Recreation Commission was to prohibit the use of Temporary Portable Lights on all school fields. (See Attachment 1, which includes appeal, and exhibits A – original policy; B – minutes of September 22, 2004 Parks and Recreation Commission meeting; C – March 23, 2005 Agenda for the Parks and Recreation Commission meeting; and D – Staff report and recommendation). The revised Temporary Portable Lights Policy is also attached (Attachment 2).

Appeal was made by Chris Sarris, President of the AYSO Region 97, and was co-signed by Jeff Braun, Field Representative for AYSO Region 97, a "group 1 user organization" that uses Kaiser School fields for practices and games. In the appeal, Mr. Sarris states that the Parks and Recreation Commission revoked the Temporary Portable Light permit that had been issued to AYSO 97 and that this act violated Procedural Due Process under the California Constitution. He went on to state that "...[AYSO] was not afforded a hearing to specifically address the right which was taken away from it."

He went on to cite that the Parks and Recreation Commission had failed "to provide notice of its intent to pull AYSO's permit at Kaiser" school.

## **ANALYSIS:**

The appellant states that Parks and Recreation Commission revoked the existing permit for the use of Temporary Portable Lights at Kaiser School by AYSO 97. In fact, the existing permit was not impacted by the decision. Commission had previously approved AYSO 97's temporary light use to begin October 15, 2004 and end March 31, 2005. No new light permits will be reviewed until May 2005 for October so no new light permits have been issued. No rights have been assigned and none were taken away from AYSO 97. Also, no field permits have been issued for the scheduling period July 1 through December 31, 2005. Field permits will be issued June 2, 2005. AYSO traditionally requests and receives permits to use Kaiser fields in the Fall and again in the Spring.

Appellant additionally states that the Parks and Recreation Commission failed to provide notice of its intent to "pull" AYSO's permit to use temporary portable lights at Kaiser. As no light permits have been granted for October 2005, there was no specific notice provided to AYSO 97, although a communication was e-mailed to all youth sports user group representatives on Monday, March 21, 2005 that the issue of Temporary Portable Light Use was being considered by the Commission and that the staff recommendation was to prohibit the use of temporary portable lights on all school fields.

There are several schools in which there are "site-specific" agreements that restrict use based upon neighborhood or school issues. Kaiser School already has several use restrictions. These are listed as an amendment to the Joint Use Agreement between the Newport Mesa Unified School District and the City.

The section relating to Kaiser School states:

"Kaiser School has 3 soccer/utility and 2 baseball fields separate from one another. Only 3 fields in any combination will be available for use at the same time. Kaiser field use hours are weekdays 4 p.m. to 8 p.m. when school is in session. Field use hours Monday through Saturday during holidays and when school is not in session are from 8 a.m. to 8 p.m. Field use hours on Sunday are 9:30 a.m. to 8 p.m. A maximum of one (1) hour for field preparation and participant warm-up prior to game time is allowed within the parameters of field use hours.

Kaiser School soccer/utility field users must stagger weekend game times ½ hour a part beginning at the northern most field continuing to the south. Tournament game times must also stagger start ½ hour a part beginning at the northern most field continuing to the south.

When only one soccer/utility field is used, it must be the middle field, unless the baseball fields are in use, then the south field must be used. Soccer goals on the south soccer/utility field must be placed an equal distance between the east and west residential properties.

No one shall be allowed west of the south field between the dirt access road and the school fence at any time."

Should the Parks and Recreation Commission's decision be upheld, the restriction on the use of lights at Kaiser will be added to this document at its next revision.

Appellant indicated that the Recreation Division failed to follow the existing Temporary Portable Lights Policy by failing to give his organization proper notice of the neighbor issues that Mr. Sarris felt influenced the Parks and Recreation Commissioners' decision. There is no requirement in the existing or revised Temporary Portable Lights Policy to give an organization proper notice of the neighbor's issues. The policy is written to inform residents around a site of an organization's intent to request the use of temporary lights. Requests for use of temporary

portable lights are scheduled annually for public hearing at the September Parks and Recreation Commission meeting.

The current request for use of lights at Kaiser School by AYSO 97 was originally held September 22, 2004. At their meeting of October 27, 2004, when the Parks and Recreation Commission heard additional testimony from several people who lived on Catalina Shores Drive adjacent to the Kaiser playing area, staff was instructed by the Commission to re-work the temporary light policy and meet with the residents to address the issues raised by the residents around Kaiser School. Recreation Division staff held a follow-up meeting at Kaiser School on February 1, 2005 (Attachment 3). There were four residents who were able to attend, along with the appellant. Several issues were raised and discussed at this meeting with the appellant in attendance.

Prior to this meeting, a resident of Garden Lane (which comes into 21<sup>st</sup> Street at the east end of the South soccer field) wrote a letter to Recreation Supervisor Ruth Raheb expressing concerns about the noise level and safety of the equipment being used at Kaiser. This, too, was shared with the appellant who indicated that he would look into additional muffling devices over the holiday break (late December, 2004). He later indicated to Recreation Coordinator Ken Sipes that cost was a factor in not getting the generators modified, as well as difficulty in transporting the units to a location where the muffling devices could be installed.

The Parks and Recreation Commission approved lights for the south-most soccer field at Kaiser, as this was the one originally permitted for use to AYSO 97. As indicated above, the site-specific agreement states, "When only one soccer/utility field is used, it must be the middle field, *unless the baseball fields are in use, then the south field must be used.*" Since baseball is in its primary season and soccer in its off-season, the south field must be used to maintain a safe playing environment. While moving the temporary portable lights to the middle, or track, field might have mitigated some of the neighbors' complaints, it could have aggravated other neighbors and been in direct conflict with the site agreement.

The Recreation Division made several attempts to provide other lit fields for AYSO 97 to use between November 15, 2004 and mid-March 2005. The fields offered included Davis Field at Lions Park and the utility field at TeWinkle Park. These field assignments were rejected by Mr. Sarris as being problematic for his group (Davis Field due to perception of it being a haunt for homeless people and other undesirable characteristics, TeWinkle Park due to distance from the area where most of the AYSO 97 participants live). It should be noted that AYSO 97 has a lighted field permit in Newport Beach (City of Newport Beach staff informed Recreation Division staff that the Bonita Canyon football field remains largely unused by AYSO 97, though).

The Athletic Facility and Field Use Policy provides a field allocation formula for an equitable distribution of available fields to organizations of the same user group status (in this case, Group 1 user organizations) based upon the number of Costa Mesa residents being served by the organization and the number of lighted fields available. AYSO 97 has rejected the only two other fields that the City has that have permanent lights and where space is available (there are additional fields in the Fall).

Recreation Division staff have not proposed to reduce the number of hours of traditional use of fields currently permitted to AYSO 120 at the Farm Sports Complex. If AYSO 97 will not accept use of the lighted fields assigned to them, then the allocation formula could be implemented to fairly distribute available hours at lighted fields for use by both of these organizations during their off-season. If AYSO 120 lost a field or some hours at the Farm Sports Complex that would be AYSO 97's gain, and AYSO 120 would have to pick up hours at the two remaining sites (TeWinkle Park and Lion's Park, during the Spring). It should also be noted that only two fields at the Farm Sports Complex are suitable for playing games under lights. Temporary portable

lights are used for practices only, usually for one or, at most, two teams at a time (10-20 participants and 1-4 coaches).

Mr. Sarris also indicates that AYSO 120 “joined him in this appeal” but there was no signature on the appeal of a representative from AYSO 120, and staff has received no documentation as of date of this report to indicate AYSO 120’s position.

Mr. Sarris did initiate a request for temporary lights for the Fall 2005 season. This request had not been acted upon at the time of the Parks and Recreation Commission meeting. As the request was to use temporary portable lights at Kaiser school, staff have since denied the request based upon the Commission motion.

Lastly, it should be noted that the first level of approval for the use of Temporary Portable Lights at school sites must be granted by the Newport Mesa Unified School District. If they deny the request, there is no appeal and no further action by City staff.

**ALTERNATIVES CONSIDERED:**

City Council may consider the following alternatives:

- 1) Uphold Parks and Recreation Commission’s motion to approve the revised Temporary Portable Lights Policy but exclude the use of temporary portable lights at Kaiser; or
- 2) Reverse and/or modify the Parks and Recreation Commission’s decision to
  - a) Approve the revised Temporary Portable Lights Policy and either accept staff recommendation to prohibit the use of temporary portable lights on any school field or direct staff to further revise the Temporary Portable Lights Policy; and/or
  - b) Approve the revised Temporary Portable Lights Policy with no site specific restrictions.

**FISCAL REVIEW:**

Applicant has paid pertinent fees associated with this appeal. No additional fiscal review is necessary.

**LEGAL REVIEW:**

No legal review of this item is required.

**CONCLUSION:**

The Parks and Recreation Commission moved to accept a revised Temporary Portable Lights Policy that provides for restrictions on the use of lights on City and School fields (organizations may request to use temporary portable lights only if no lighted fields are available, may only use them Monday through Thursday, between October 1 through March 31, until 8:00 p.m., with no use allowed on holidays or between Christmas and New Year's Day). The Commission included in their motion to not allow the use of lights at Kaiser School (where AYSO 97 has used the lights for at least the past two seasons). This motion was made to address concerns raised by neighbors and residents who felt their quality of life was being negatively impacted by having temporary portable lights used on school fields where no permanent lights exist.

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JANA M. RANSOM  
Recreation Manager

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STEPHEN N. MANDOKI  
Administrative Services Director

DISTRIBUTION:      City Manager  
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Mailing Lists:  
Kaiser School residents (20)  
Youth Sports League Presidents and Field Representatives (20)

ATTACHMENTS:      1      [Appeal with Exhibits 1 – 4](#)  
                            2      [Revised Temporary Portable Lights Policy](#)  
                            3      [Notes of Neighborhood Meeting](#)  
                            4      [Contact Information for AYSO 97 and Year-Round Schedule](#)

File Name 04 19 05 Temp Lights Appeal

Date April 4, 2005