

CITY OF DALY CITY
REGULAR MEETING - CITY COUNCIL
AGENDA

Monday, August 04, 2008 - 7:00 PM

Council Chambers
(2nd Floor)

For those wishing to address the City Council on any Item on the Agenda or under Public Appearances/Oral Communications, please complete a Speaker Card located at the entrance to the Council Chambers and submit to a Staff Member as early in the meeting as possible.

Persons with disabilities who require auxiliary aids or services in attending or participating in this meeting should call the office of the City Clerk at 991-8078 as soon as possible.

CALL TO ORDER:

PLEDGE TO THE FLAG:

ROLL CALL:

PRESENTATIONS:

Test -----Siu test

Adopt Ordinance

.

a. Motion to Adopt Resolution

.

a. Motion to Adopt Resolution

1993 Bronco

Wil - Test

wefasf

Kurtis attempts to justify his obsession with **all Ford Broncos**.

**No Action
Required -
Information
Only**

Motion to hold him to two minutes.

Proclamation for Earthquake Preparedness Week

Kurtis *should* like **GMC**.

**Planning Item
(List)**

c. Roll Call

kurtis

APPROVAL OF AGENDA:

CONSENT AGENDA

All items listed on the Consent Agenda are considered to be routine and may be approved by one roll call vote of the City Council. There shall be no separate discussion of the matters on the Consent Agenda unless requested by a member of the City Council. If discussion is required, that item will be removed from the Consent Agenda and will be considered separately at the end of the Agenda.

END OF CONSENT AGENDA

PUBLIC HEARINGS:

1. Award Bid for City Hall Demolition
2. Approve Audit Contract
3. Wil
4. McVey Test
5. Joseph Curran
6. Test, ks
7. Test_RF
8. Authorization to Execute Contract with XYZ

PUBLIC APPEARANCES/ORAL COMMUNICATIONS:

NOTE: Speakers are limited to two minutes, unless modified by the Mayor. The Council cannot take action on any matter raised under this item

APPOINTMENTS: Board/Commission

REPORTS:

9. Council Committee

10. City Council

11. Staff

ADJOURNMENT:



City of Daly City

Electronic Mail Policy

Purpose

The City of Daly City provides electronic mail (e-mail) to employees for their use in performing their duties for the City. E-mail provides benefits to the City by facilitating communication between departments and assisting us in the efficient delivery of services to the residents and businesses within the City, helping to further our organizational purposes. However, due to the nature of e-mail, there is potential for misuse. This policy document is intended to provide guidance to City employees on the proper use of e-mail, while preserving its positive benefits.

Access to E-mail

The City provides internal and external e-mail for employee use depending on need. All employees who are assigned a personal computer are granted access to the City's internal e-mail system. Those who have a business need will be granted access to external e-mail. Department heads, assistant department heads, and Information Services staff are authorized to use the external e-mail system. Department Head approval is required for all other employees who wish external e-mail access, and is handled on a case-by-case basis. Departments should submit written requests for employee access via the Network Account Action Request Form.

Ownership and Privacy

All electronic systems, hardware, software, temporary, or permanent files, and any related systems or devices used in the transmission, receipt, or storage of e-mail are the property of the City of Daly City. E-mail messages are considered City property, and may be retrieved from storage even though the sender and receiver have deleted them. E-mail messages are subject to use in disciplinary proceedings.

E-Mail Is Not Private. Employees should have no expectations that their e-mail will not be read by others. Employees should be aware that e-mail messages may be read by others for a number of valid reasons. Additionally, third parties can intercept messages with little risk of being detected. Supervisors have the authority to inspect the content of any equipment, files, calendars, or electronic mail of their subordinates in the normal course of their supervisory duties. Reasons for review include, but are not limited to, system hardware or software problems, general system failure, regular system maintenance, litigation, suspicion of a crime or violation of City policies, or a need to perform work or provide a service when the employee is unavailable.

Personal Use

Employees who want to have personal external e-mail should contract for this from any number of nonprofit or commercial providers, and use it at home. However, should employees make use of the City e-mail system for incidental personal use, such messages will be treated no differently than other messages, and may be accessed, reviewed, copied, deleted, or disclosed as required by the legitimate business and supervisory needs of the City. You should not expect that a message will never be disclosed to or read by others beyond its original intended recipient.

Use Subject to Approval

The following uses are prohibited unless specific written authorization is obtained from the employee's Department Head:

- Reading the e-mail of another employee. However, an employee's supervisor may inspect the contents of e-mail pursuant to this policy.

- Using hardware or related computer equipment or software not owned by the City for accessing the City e-mail system. Outlook Web Access and its separate policy requirements is the only exception.
- Encrypting any e-mail message unless specifically authorized to do so, and without depositing the encryption key with Information Services and your immediate supervisor before encryption of any messages. If an employee is authorized to encrypt e-mail this does not mean that e-mail is intended for personal communication, nor does it suggest that encrypted e-mail is the private property of the employee.

Prohibited Use

The following actions are prohibited:

- Intercepting, eavesdropping, recording, or altering another person's e-mail.
- Forwarding a message sent to you without the sender's permission.
- Adopting the identity of another person on any e-mail message, attempting to send e-mail anonymously, or using another person's password.
- Misrepresenting your affiliation on any e-mail message.
- Composing e-mail which violates any of the City's policies, including its sexual harassment policy, or which contains content that could be interpreted as offensive, discriminating, harassing, intimidating, or abusive.
- Using e-mail for any commercial purpose, including personal messages offering to buy or sell goods or services.
- Sending or receiving software or other original works in violation of copyright laws.
- Using e-mail to communicate material of a political, religious, obscene, or derogatory nature.

Confidential Information

California law requires that all employees protect the integrity of the City's confidential information as well as the confidentiality of others. Employees must exercise a greater degree of care in transmitting confidential information via e-mail because of the reduced effort required to redistribute it and the possibility of inadvertently directing it to the wrong recipient. Confidential information should never be distributed to others inside or outside the City organization who do not have authorization to view such information.

Some examples of confidential information are:

- Information from an employee's personnel file, including social security number, home address, or home phone number, or information on family members.
- Information relating to litigation or potential litigation.
- Information that, if released, may give a competitive advantage to one competitor or bidder over another.
- Trade secrets, commercial or financial information of outside businesses.

Sensitive information should generally not be transmitted via e-mail. It should never be transmitted using distribution lists, should never be forwarded, and should never be archived on public computer systems.

Confidential Attorney/Client Privileged Information

There are differing opinions in the legal community as to whether sending such information via e-mail effectively waives the confidentiality of the communication. As such, information subject to attorney/client privilege should generally not be communicated via e-mail.

Public Records

The nature of e-mail use is, in substance, like that of a telephone conversation. Although e-mail communications may ultimately result in the creation of a public document, e-mail in and of itself is not considered to be a public document. Under Section 6254(a) of the Government Code, such records are exempt from the Public Records Act if they are "Preliminary drafts, notes, or interagency or intra-agency memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure."

Accordingly, the City does not archive e-mail, and Information Services will delete old e-mail messages on a routine basis. Individual users should delete messages as soon as they are no longer needed. Any public document that results from e-mail communications should be produced in hard copy form and archived per records retention guidelines. Even though e-mail records may not be public documents, they are subject to discovery in litigation. Even if both receiver and sender have deleted the e-mail it may still be recoverable from back-up tapes or personal computer hard drives.

EMPLOYEE RESPONSIBILITY

Each employee with access to the City's e-mail system is responsible for understanding and following these guidelines. Unauthorized or improper use of the City's e-mail system may result in terminating access to it; and depending on the severity of the outcome of unauthorized or improper use, may result in disciplinary action, including termination. Department heads are responsible for providing employees who have internal and external e-mail access with a copy of this policy.

EMPLOYEE ACKNOWLEDGMENT OF POLICY

I hereby acknowledge that I have received, read and understand the City of Daly City's Electronic Mail Policy. I understand that all e-mail communications systems and all information transmitted by, received from, or stored in these systems is the property of the City. I have no expectation of privacy in connection with the use of this equipment or with the transmission, receipt, or storage of such information. I acknowledge and consent to the City monitoring my e-mail at any time as provided by the Electronic Mail Policy.

Employee Name

Employee Signature/Date

Department Head Signature/Date

Original – Information Services

Copy – Employee

Copy - Department File

Agenda Item Request

Name:lrhines

Department:Human Resources

Division:Broncos

Date:07/31/2008

Caption of Item:Kurtis and His Obsession

Item Details:

Notes:testing flow start

Fiscal Impact:

Meeting Type:

Meeting Name:

Supervisor:Lonnie

Supervisor approved? ☐

City of Daly City

Electronic Mail Policy and blue jeans limits

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- Forwarding a message sent to you without the sender's permission.
- Adopting the identity of another person on any e-mail message, attempting to send e-mail anonymously, or using another person's password.
- Misrepresenting your affiliation on any e-mail message.
- Composing e-mail which violates any of the City's policies, including its sexual harassment policy, or which contains content that could be interpreted as offensive, discriminating, harassing, intimidating, or abusive.
- Using e-mail for any commercial purpose, including personal messages offering to buy or sell goods or services.
- Sending or receiving software or other original works in violation of copyright laws.
- Using e-mail to communicate material of a political, religious, obscene, or derogatory nature.

Confidential Information

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EMPLOYEE RESPONSIBILITY

Each employee with access to the City's e-mail system is responsible for understanding and following these guidelines. Unauthorized or improper use of the City's e-mail system may result in terminating access to it; and depending on the severity of the outcome of unauthorized or improper use, may result in disciplinary action, including termination. Department heads are responsible for providing employees who have internal and external e-mail access with a copy of this policy.

EMPLOYEE ACKNOWLEDGMENT OF POLICY

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Employee Name

Employee Signature/Date

Department Head Signature/Date

Original – Information Services

Copy – Employee

Copy - Department File



City of Daly City

Cellular Device Policy

PURPOSE

This document establishes the parameters under which the City will provide cellular equipment and service to certain employees for business use.

OBTAINING EQUIPMENT AND SERVICE

The City provides cellular equipment and service to designated City employees when in the determination of the City it allows for more efficient and higher quality of service and/or work performance. This equipment and service is provided to the employee as a matter of convenience for the employer. Authorization by the Department Head is required. Equipment and service plans are administered by the Information Services Division of the Department of Finance and Administrative Services. All requests for equipment and service must be processed through Information Services.

Budgeting for equipment and service will be administered at the Department level. Upon selecting an appropriate device and service plan with assistance from Information Services, billing and payment will be managed by the Department. Likewise, repair or replacement of damaged or lost/stolen equipment will be processed through Information Services at the discretion of the Department Head.

NETWORK CONNECTIVITY AND DATA SYNCHRONIZATION

Many 'smart' devices offer functionality to connect to the City's data network for purposes of sending and receiving email communication, and synchronizing contact and calendar information. Such devices are significantly more expensive than standard cellular phones, and also require data service at an increased monthly expense. On approval of the Department Head, one of these devices may be ordered for the employee in lieu of a standard telephone. It will be configured by Information Services, with training provided to the employee.

Security is a key concern with these devices. In case of loss or theft there is the potential for confidential or otherwise sensitive information to be jeopardized. The technology used by Information Services to manage the connectivity also provides assurances against such data loss. Accordingly, only City-owned devices are permitted to connect to the City's network in this fashion. Personally-owned cellular devices may not be connected to the City's data network, either via 'over-the-air' technology, or by a direct cabled connection to a PC workstation. It is the responsibility of the employee to immediately notify Information Services in case of loss or theft of a cellular device.

PERSONAL USE

De minimus personal use is permitted. However, personal use that causes service fees or charges above the level set for necessary business use must be reimbursed to the City. For example, it is anticipated that a basic level of monthly service will be adequate for most staff to perform their job duties. Because usage must be purchased in blocks and there is no extra cost to the City for de minimus personal use, no reimbursement to the City is required for this personal use. When the cost of service used in a month is beyond the level of service subscribed to that is deemed necessary for business use as a result of personal use, the employee is required to reimburse the City for the cost of that excess use within 30 days or receipt of the billing for service.

HANDS FREE USE

In accordance with SB 1613 (Vehicle Code §23123), the employee is prohibited from using the cellular device while operating a motor vehicle, unless a “hands free” device is employed. Such devices include wired headsets, Bluetooth wireless headsets, and portable and fixed Bluetooth car kits.

EMPLOYEE RESPONSIBILITY

Each employee receiving a cellular device is responsible for understanding and following the guidelines defined above. The employee is also responsible for reasonable care and safeguarding of the equipment provided. Unauthorized or improper use of the device and/or cellular service may result in confiscation, and depending on the severity of the outcome of unauthorized or improper use, may result in disciplinary action, including termination. Emphasizing two key factors above:

1. The employee is responsible for immediately notifying Information Services in case of loss or theft of any cellular device.
2. The employee is responsible for monitoring personal usage and reimbursing the City for additional charges within 30 days.

EMPLOYEE ACKNOWLEDGMENT OF POLICY

I hereby acknowledge that I have received, read and understand the City of Daly City's Cellular Device Policy, and that I will adhere to all of the details within.

Employee Name

Employee Signature/Date

Department Head Signature/Date

Original – Information Services

Copy – Employee/Department File







THIS AGREEMENT, made and entered onto this ___day of May, 2008, by and between Butler Amusements, Inc., a California corporation, referred to herein as “First Party”, and the Daly City/Colma Rotary Club, the Daly City Host Lions Club and the City of Daly City (Parks and Recreation Department), collectively referred to herein as “Second Party”.

RECITALS:

WHEREAS, First Party is engaged in the business of producing and operating shows, exhibitions, entertainment and amusement devices; and

WHEREAS, Second Party desires to engage the services of First Party for the purpose of producing a fundraising carnival, the production and exhibition to take place from June 10, 2008 to and including June 16, 2008 in the City of Daly City, California (referred to herein as the “Event”).

AGREEMENT:

1. Second Party agrees to facilitate the production of the Event by securing an encroachment permit for the proposed Event site located in the parking lot at D Street and Junipero Serra (far-west of the BART Station) (referred to herein as the “Property”) and owned by the San Mateo County Transit District (referred to herein as “SamTrans”).

First Party agrees to:

2. In keeping with its title “Cleanest Show in the West,” First Party agrees to maintain and clean the Property during the Event and to leave the Property in at least the same state and condition as when First Party entered thereon.
3. First Party further agrees to occupy, use and maintain Property in such manner and at such times as shall not endanger or interfere with District’s operations, and shall be responsible to assure the smooth and uninterrupted flow of traffic in and around the Property and the proper control of crowds in and around the Property.
4. First Party further agrees to keep all equipment, tools and materials stored at least twenty (20) feet away from the centerline of any operable track. Explosives or other highly inflammable substances are expressly prohibited and may not be brought onto or stored on the Property.
5. First Party shall have exclusive control of the operation and maintenance of all shows, riding devices and concessions.
6. **Indemnification.**
To the fullest extent permitted by law (including, without limitation, California Civil Code Sections 2782 and 2782.6), First Party and its sureties expressly agree to and shall defend, indemnify and hold harmless Second Party, its directors, officers, agents, employees and their successors or assignees (hereinafter termed “Indemnitees”) from and

against any and all claims, demands, losses, damages, causes of action, suits, and liabilities of every kind, direct or indirect (including, without limitation, incidental and consequential damages, attorneys' fees, court costs, and other expenses related thereto) for injury to or death of a person or for loss of or damage to any property, arising out of or in connection with this agreement. Such obligations to defend, hold harmless and indemnify any Indemnatee shall not apply to the extent that such liabilities arise out of the sole negligence, active negligence, or willful misconduct of Indemnatee. This indemnity shall survive the termination of this agreement.

First Party and its sureties expressly and specifically agree to waive any and all subrogation rights it may have against the Indemnitees. Indemnification and waiver of subrogation contained in this section shall remain operative and in full force and effect regardless of any termination of this agreement.

7. Insurance.

First Party is required to and expressly agrees that it will procure and maintain at its sole cost and expense the insurance coverage described in this section. Such insurance shall remain in full force and effect for the duration of the Event, at least from June 10 through June 16, 2008.

A. Workers Compensation and Employers' Liability Insurance

- i. Workers Compensation as required by the laws of the State of California.
- ii. Employer's Liability coverage as required by the laws of the State of California and with minimum limits of \$1 million.
- iii. First Party shall require each subcontractor, if any, to similarly maintain Workers Compensation Insurance and Employer's Liability Insurance in accordance with the laws of the State of California for all of the subcontractor's employees.
- iv. Such insurance shall include an endorsement for waiver of subrogation in favor of the Second Party.

B. Commercial General Liability Insurance

Commercial General Liability insurance for bodily injury and property damage coverage with a combined single limit for bodily injury and property damage of at least \$1 million per occurrence or claim and a general aggregate limit of at least \$2 million.

- i. The insurance shall include coverage for, but not be limited to:
 - a. Premises and operations.
 - b. Products and completed operations.
 - c. Contractual liability.
 - d. Personal injury.
 - e. Advertising injury.
 - f. Explosion, collapse, and underground coverage (xcu).

- g. Broad form property damage.
- ii. Coverage shall also extend to products liability for the food, drink and/or preparation of such food or drink provided by First Party either by being expressly included within the Commercial General Liability Form, or added by endorsement.

C. Automobile Liability Insurance

Automobile Liability Insurance for bodily injury, personal injury and property damage with a combined single limit of at least \$1 million per occurrence for the operation or maintenance of automobiles or other motor vehicles used for the Event including, but not limited to, all owned vehicles; non-owned vehicles; and hired or rental vehicles.

D. Subcontractors.

First Party is also required to and expressly agrees to include in every subcontract with third parties the requirement that the subcontracted third party maintain adequate insurance coverage with appropriate limits and endorsements to cover such risks; the limit for the commercial general liability insurance in each subcontract shall not be less than \$1 million. To the extent that subcontracted third party does not procure and maintain such insurance coverage, First Party shall be responsible for said coverage and assume any and all costs and expenses that may be incurred in securing said coverage or in fulfilling First Party's indemnity obligation as to itself or any of its subcontractors in the absence of coverage.

E. Policy Endorsements.

Each general liability and automobile liability insurance policy shall be with insurers possessing a Best's rating of no less than A:VII and shall be endorsed with the following specific language containing the following specific components:

- i. The insurance policy number.
- ii. An endorsement for waiver of subrogation in favor of the Second Party.
- iii. A statement that includes the following language:
"The City of Daly City; Daly City Host Lions Club; Daly City/Colma Rotary Club; and the San Mateo County Transit District and their respective directors, officers, employees, volunteers and agents, and their successors or assignees, are insureds"
- iv. A statement that includes the following language:
"The insurance shall be primary as respects the insured shown in the schedule above, or if excess, shall stand in an unbroken chain of coverage excess of the Named Insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the Insured scheduled above shall be in excess of this insurance and shall not be called upon to contribute with it."
- v. A statement that includes the following language:

“The insurance afforded by this policy shall not be canceled except after thirty days prior written notice by certified mail return receipt requested has been given to the City of Daly City.”

F. Certificates of Insurance and Endorsements.

First Party shall provide certificates of insurance with original endorsements to First Party as evidence of the insurance coverage required herein. Certificates of such insurance shall be filed with the City of Daly City on or before commencement of performance of this Agreement. Current certification of insurance shall be kept on file with the City of Daly City at all times during the term of this Agreement.

8. **Payments.**

A. Upon completion of the Event, and not later than thirty (30) calendar days, First Party agrees to pay to Second Party as follows, each member of the Second Party to share equally in 1/3 shares of the total amount:

- i. Advance Sales: 25% of the first \$5,000 and 30% thereafter of the gross sales;
- ii. On Site Sales: 15% of the first \$10,000, 20% of the next \$10,000 and 25% thereafter of the gross sales; and
- iii. Concession Sales: \$20 for each food and game concession operated by the First Party.

B. First Party shall incur all up front costs, with future reimbursement by Second Party of 50% of actual costs, for the following good and services only: Security; Portable Toilets; Waste Receptacles; Permits; and Fence as required.

C. Reimbursement by the Second Party to the First Party is limited to 50% of the actual costs of the goods and services described in this section only, and shall be deducted by First Party from any revenue described in Section 8, Paragraph A of this Agreement.

D. Any and all licenses, contracts, agreements, receipts, invoices, statements, and/or purchase orders for goods and services described in Paragraph B of this section shall be provided to Second Party for inspection or audit upon request.

9. **Written Notification.**

Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing and either served personally or sent prepaid, first class mail. Any such notice, demand, etc. shall be addressed to the other party at the address set forth herein below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within forty eight (48) hours from the time of mailing if mailed as provided in this section.

If to Second Party: City of Daly City – City Hall
Attn: Assistant City Manager
333 90th Street
Daly City, CA 94015

If to First Party: Butler Amusements, Inc.
Attn: Rich Byrum, VP
1006 Travis Blvd.
P.O. Box 2210
Fairfield, CA 94533

10. **Entire Agreement.** This Agreement constitutes the complete statement of Agreement between the parties. All prior written and oral communications, including correspondence, drafts, memoranda, and representations, are superseded in total by this Agreement.
11. **Amendments.** This Agreement may be modified or amended only by a written document executed by both parties.
12. **Waiver.** No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder.
13. **Litigation Expenses and Attorneys' Fees.** If either party to this Agreement commences any legal action against the other party arising out of this Agreement, the prevailing party shall be entitled to recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorneys' fees.
14. **Execution.** This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.
15. **Controlling Law Venue.** This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this Agreement shall be held exclusively in a state court in the County of San Mateo, California.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first written above in the County of San Mateo, California.

BUTLER AMUSEMENTS, INC.

BY _____
[Name/Title]

CITY OF DALY CITY

BY _____
[Name/Title]

DALY CITY HOST LIONS CLUB

BY _____
[Name/Title]

DALY CITY/COLMA ROTARY CLUB

BY _____
[Name/Title]



