

CITY OF YUBA CITY  
STAFF REPORT

**Date:** October 6, 2009  
**To:** Honorable Mayor & Members of the City Council  
**From:** Parks and Recreation Commission  
**Presentation By:** Brad McIntire, Parks & Recreation Director

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**Subject:** Prohibiting the use of Tobacco at all City Parks and within 50 feet of any public entrance into a City owned or leased facility.

**Recommendation:** Introduce an Ordinance amending Title 9 Chapter 2 – Prohibiting Tobacco Use in Gauche Park to include all City Parks and within 50 feet of any public entrance into a City owned or leased facility and waive the first reading.

**Fiscal Impact:** \$1,500.00 of funding will be provided through the Sutter County Tobacco Control Project to cover the cost of providing signage at all City Parks and City Facilities.  
Direct the Finance Director to record a Supplemental budget adjustment for expenditures and revenues as it relates to this project.

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**Background:**

On March 4, 2008 the City Council approved an ordinance for Gauche Aquatic Park to be tobacco free. In the first year of implementation, staff has had no negative issues or situations with the public as it relates to enforcing the ordinance.

On May 20, 2009 the Yuba City Parks and Recreation Commission was approached by the Substance Abuse Steering Coalition (a group of local citizens and professionals in the Tri-County area who promote a healthy substance abuse free environment for all) requesting the Parks and Recreation Commission to consider prohibiting the use of tobacco at all City Parks and within 50 feet of any public entrance into a City owned or leased facility.

Two Public Hearings were held July 15, 2009, and August 19, 2009. Throughout the two public hearings there were many citizens that spoke in favor of the proposal and only one citizen spoke in opposition. At the August 19th Public Hearing, the Parks and Recreation Commission unanimously voted to accept the proposal to prohibit the use of tobacco at all City Parks and within 50 feet of any public entrance into any City owned or leased facility; and recommend to City Council to adopt a revised ordinance.

**Analysis:**

- In promoting health and wellness and facilitating community problem solving, staff believes it is in the best interest of the City to create a Tobacco Free ordinance for all City Parks and Facilities.
- Implementing this ordinance will likely reduce the litter of cigarette butts.
- As of January 2002, California Health and Safety Code section 104495 prohibits the smoking of any cigarette, cigar or other tobacco related products within 25 feet of a tot lot sandbox area at a park or recreational area specifically designated to be used by children that have play equipment installed, are located on public or private school grounds, or on city, county, or state park grounds.
- There are approximately 90 cities and counties that have approved a No Smoking Ordinance and/or Tobacco Free Ordinance in the State of California.
- Local area cities with a No-Smoking Ordinance include: Sacramento, Roseville, Davis, Woodland and Redding.
- Outdoor smoking ordinances are designed to be self-enforcing. When communities pass these types of policies, they do not intend for police officers to spend their time searching for people smoking in public places. Rather, the expectation is that through education and signage, residents will become aware of the smoking restrictions and most individuals who smoke will obey the law. If someone does smoke in a restricted area, other people are likely to ask the individual to stop and inform them of the restrictions.
- Prohibiting Tobacco Use within 50 feet of any public entrance into a City owned or leased facility will be consistent with Sutter County's ordinance.

Attachment A  
Attachment B

Minutes from the two Public Hearings.  
Proposed Ordinance amending Title 9 Chapter 2 of the Municipal Code.

**Fiscal Impact:**

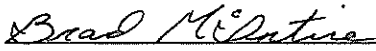
Cost of materials and supplies will be funded by the \$1,500.00 provided by the Sutter County Tobacco Control Project. Staff from Public Works will be putting the signs up throughout City Parks and facilities.

**Alternatives:**


1. Do not introduce the Ordinance.
2. Modify the restrictions to the Ordinance.

**Recommendation:** Introduce an Ordinance amending Title 9 Chapter 2 – Prohibiting Tobacco Use in Gauche Park to include all City Parks and within 50 feet of any public entrance into a City owned or leased facility and waive the first reading.

Prepared By:

  
\_\_\_\_\_  
Brad McIntire  
Parks & Recreation Director

Submitted By:

  
\_\_\_\_\_  
Steven R. Jepsen  
City Manager


Reviewed By:

Department Head

Finance

City Attorney

*Other: (Name, Title)*

\_\_\_\_\_  
  
\_\_\_\_\_  
*Via Email*  
\_\_\_\_\_

CITY OF YUBA  
PARKS AND RECREATION COMMISSION  
MINUTES

Public Hearing/Regular Meeting  
July 15, 2009 – 5:30 p.m.  
City Hall Council Chambers  
1201 Civic Center Boulevard, Yuba City

I. CALL TO ORDER

The City of Yuba City Parks & Recreation Commission Public Hearing/Regular Meeting was called to order by Chairperson Musfelt at 5:30 p.m. in the City Hall Council Chambers.

II. ROLL CALL

Commissioners Present:  
Charles Anderson, Michele Blake, Vaughn Minnix and Clarine Musfelt

Commissioners Absent:  
Gary Hurlbut

Staff Present:  
Brad McIntire, Parks & Recreation Director, and Barbara Gilmore, Administrative Assistant

Chairperson Musfelt led the Pledge of Allegiance.

III. MEETING PROCEDURES

Chairperson Musfelt read the Meeting Procedures.

IV. PROPOSAL PROHIBITING THE USE OF TOBACCO AT ALL CITY PARKS AND WITHIN 50 FEET OF ANY PUBLIC ENTRANCE INTO ANY CITY OWNED OR LEASED FACILITY

This proposal and its background were explained to those in attendance.

V. APPEARANCE OF INTERESTED CITIZENS

Those speaking in favor of this proposal were several youth and one adult who are members of the Substance Abuse Steering Coalition, Tina Lavy with Sutter County Human Services Health Division - Health Education and member of the Substance Abuse Steering Coalition, and Narinder Dhaliwal, Project Director for California's Clean Air Project.

Commissioner Anderson stated that at one of the Commission's last meetings, there was a display of cigarette butts that had been collected on a cleanup day at local parks and the Commission had asked about the effectiveness of the Ordinance in place at Gauche Aquatic Park. He asked if someone could reiterate on the before and after effects. Tina Lavy stated she has been involved with the youth who have done the litter pick-up at Gauche Aquatic Park, and was in attendance at the meeting. She stated that quite an extensive litter pick-up was done prior to the parks opening, and hasn't done another since. Ms. Lavy stated she has been told that there have been no major issues with the park being tobacco free. She stated this group would like to do another litter pick-up at the end of the summer to see the difference. She would report this information back to the Commission if they would like.

Ms. Lavy stated she would like to see the tobacco free information promoted more in the publications that the Parks & Recreation Department puts out to the public and any information that Gauche Aquatic Park has for the public.

Ms. Lavy stated the Substance Abuse Steering Coalition is in favor of the Ordinance to have no tobacco within 50 feet of any public entrance into any City owned or leased facility as this is what Sutter County is doing at this time. She feels in doing this, there would be no confusion between County and City facilities.

Ms. Dhaliwal stated that in other cities the enforcement of this Ordinance is not placed on only one entity to enforce (such as the Police Department). The enforcement is something that will take effect over time as once it is in place and signage is provided, people will adhere to the signage and public pressure.

VI. CLOSE PUBLIC HEARING

Chairperson Musfelt informed those in attendance that the next Public Meeting will be held on Wednesday, August 19 at the City Hall Council Chambers. At that time, the Commission will make the decision whether or not to forward this proposal to the City Council. With no other comments being made, Chairperson Musfelt closed the Public Hearing and asked for a 3 minute break.

VII. APPROVAL OF MINUTES

A. June 17, 2009, 2009 Regular Meeting – Copy submitted prior to meeting

Vice-Chairperson Minnix moved to approve the minutes from the June 17, 2009 Regular Meeting as submitted. The motion was seconded by Commissioner Anderson, which passed unanimously by the Commissioners present.

VIII. BUSINESS FOR THE COMMISSION

There was no Business for the Commission at this time.

VII. ITEMS FOR INFORMATION AND DISCUSSION

A. Parks & Recreation Report

Mr. McIntire gave a very comprehensive report of the activities and programs that have been taking place in the Recreation Department (a copy of this information is attached).

Mr. McIntire informed the Commission of the following park related items:

- The Adopt-a-Park Program was approved and will be advertised on the City's web site.

Chairperson Musfelt thanked Mr. McIntire for his report.

Commissioner Minnix asked what the impact of the State Budget issues has on the City. Mr. McIntire stated that as of July 1 the entire City will experience a 5% cut, with some departments implementing a furlough day every other Friday. The hours of operation for the administrative office of the Parks and Recreation Department will be Monday through Thursday from 8 am – 5:30 pm and Friday from 8 am – 5 pm, with every other Friday off. The City is beginning to address issues for 2010/2011 and 2011/2012, with the

anticipation of this ongoing deficit. Meetings are being held with all bargaining units throughout the City, and this issue will be addressed in the coming months.

B. Agenda Items for the Next Commission Meeting

None

X. TREE ADVISORY BOARD

There was nothing to report at this time.

XI. NEXT COMMISSION DATE

Public Hearing/Regular Meeting – August 19, 2009 at 5:30 p.m. – City Hall Council Chambers – 1201 Civic Center Boulevard, Yuba City, CA.

XII. ADJOURNMENT

Chairperson Musfelt adjourned the meeting at 6:05 p.m.

Respectfully submitted,



Brad McIntire  
Parks & Recreation Director

BM/bg

Attachment

CITY OF YUBA  
PARKS AND RECREATION COMMISSION  
MINUTES

Public Hearing/Regular Meeting  
August 19, 2009 – 5:30 p.m.  
City Hall Council Chambers  
1201 Civic Center Boulevard, Yuba City

I. CALL TO ORDER

The City of Yuba City Parks & Recreation Commission Public Hearing/Regular Meeting was called to order by Chairperson Musfelt at 5:30 p.m. in the City Hall Council Chambers.

II. ROLL CALL

Commissioners Present:  
Charles Anderson, Michele Blake, Gary Hurlbut, Vaughn Minnix and Clarine Musfelt

Commissioners Absent:  
None

Staff Present:  
Brad McIntire, Parks & Recreation Director, and Barbara Gilmore, Administrative Assistant

III. PLEDGE OF ALLEGIANCE

Chairperson Musfelt led the Pledge of Allegiance.

IV. MEETING PROCEDURES

Chairperson Musfelt read the Meeting Procedures.

V. PROPOSAL PROHIBITING THE USE OF TOBACCO AT ALL CITY PARKS AND WITHIN 50 FEET OF ANY PUBLIC ENTRANCE INTO ANY CITY OWNED OR LEASED FACILITY

This proposal and its background were explained to those in attendance.

VI. APPEARANCE OF INTERESTED CITIZENS

Richard Arent, a neighbor of Regency Park, stated he is in favor of this proposal. He informed the Commission that he walks the park regularly picking up litter, and showed the tobacco related litter he had picked up in the last 3 days.

Mary Moffitt, a Yuba City resident, stated she felt that smokers have the right to use a park. She further stated that if litter seems to be the problem, then she feels the littering issue should be enforced and fines should be given out to those littering. She herself is a non-smoker, but feels this proposal infringes on peoples rights. Ms. Moffitt also stated that the 50 feet radius is a bit much and feels the laws today are a bit overdone. She was surprised that the article published in the local paper on August 13<sup>th</sup> had no opposing views. Commissioner Minnix commended Ms. Moffitt for coming forward with her comments.

Others in attendance who spoke in favor of the proposal were Mike Fortyler, a volunteer for the American Cancer Society, Laura Plaia, a mother with two children who have asthma, and Tim

Penberthy, a youth who belongs to the Substance Abuse Steering Coalition. Ms. Plaia stated she doesn't want to infringe on anyone's rights, but would like to see this proposal passed for the health of her children. She further stated sometimes laws are needed to enforce common sense and courtesy for others. Several others in support of the proposal were in the audience but chose not to speak before the Commission.

Narinder Dhaliwal with the California Clean Air Project stated she had done some research regarding the enforcement of a proposal such as this. She informed the Commission that every City she had spoken to said they haven't had a problem with enforcement, which is self-enforced through signage. Ms. Dhaliwal said she was told that with the signage in the parks, smoking ceases over a period of time.

Chairperson Musfelt thanked everyone for their comments. She stated she agrees with Ms. Moffitt and hates to see laws that infringe on peoples rights, however she feels that the litter from tobacco is a problem. She further stated she has mixed feelings on this proposal. Commissioner Anderson stated he understands the rights of people, however smoking in public infringes on the rights of non-smokers. He stated he appreciates this proposal. Commissioner Blake also stated she appreciates this proposal. She agreed with Ms. Plaia that non-smokers have the right to breathe clean air. Ms. Blake stated that from all the research that has been presented to her from the Substance Abuse Steering Coalition, she understands that a lot has been learned in the past years of the detriments of secondhand smoke that was not known in previous years. She stated that it is up to the Coalition and this Commission to determine whether or not we can, and hopefully will, protect the air that our children breathe when they are utilizing the parks in Yuba City. Ms. Blake stated, as we have seen, this is not an innovative, out of the box decision to make parks tobacco free. This is being done in many cities, and she hopes that the City of Yuba City can catch up with this idea.

Commissioner Anderson made the motion to accept the proposal to prohibit the use of tobacco at all City parks and within 50 feet of any public entrance into any City owned or leased facility. This motion was seconded by Commissioner Blake, and passed unanimously. Chairperson Musfelt stated that this proposal will be forwarded on to City Council for their approval.

VII. CLOSE PUBLIC HEARING

Chairperson Musfelt closed the Public Hearing and asked for a 3 minute break.

VIII. APPROVAL OF MINUTES

A. July 15, 2009, 2009 Public Hearing/Regular Meeting – Copy submitted

Vice-Chairperson Minnix moved to approve the minutes from the July 15, 2009 Public Hearing/Regular Meeting as submitted. The motion was seconded by Commissioner Hurlbut, which passed unanimously.

IX. BUSINESS FOR THE COMMISSION

There was no Business for the Commission at this time.

X. ITEMS FOR INFORMATION AND DISCUSSION

A. Parks & Recreation Report

Mr. McIntire gave a very comprehensive report of the activities and programs that have been taking place in the Recreation Department (a copy of this information is attached).

Commissioner Minnix said with all the activity held at GAP, several people have inquired why the swim meet competition results are not in the local newspaper. He asked if there is anything the Parks & Recreation Department can do to get this publicity out. Mr. McIntire stated that the two high schools get covered under the school sports section; however FRAC is a private organization. He stated he assumes the information is given to the Appeal Democrat for publication, however it probably depends on how much space is available in the sports section on that given day. He stated he has seen it in the paper, however it is a large amount of information to publish.

B. Agenda Items for the Next Commission Meeting

None

XI. TREE ADVISORY BOARD

Mr. McIntire stated that Gary Marler or Tim Duvall would be in attendance at the next meeting to give a report.

Commissioner Anderson stated he had heard trees are going to be put in at the Hwy. 99 and 20 intersections. He asked if the Parks Department would have any responsibility for these trees. Mr. McIntire stated that this is being worked out between CalTrans and the City at this time. He said he would get the information and report on this at the next meeting.

XII. NEXT COMMISSION DATE

Regular Meeting – September 16, 2009 at 5:30 p.m. – Recreation Conference Room, Littlejohn/Madden House, 1300 Franklin Road, Yuba City, CA.

XIII. ADJOURNMENT

Chairperson Musfelt adjourned the meeting at 6:12 p.m.

Respectfully submitted,



Brad McIntire  
Parks & Recreation Director

BM/bg

Attachment

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF YUBA CITY AMENDING TITLE 9,  
CHAPTER 2, OF THE YUBA CITY MUNICIPAL CODE  
PROHIBITING SMOKING **TOBACCO USE** IN GAUCHE AQUATIC PARK **ALL CITY  
PARKS AND WITHIN 50 FEET OF ANY PUBLIC ENTRANCE INTO ANY CITY  
OWNED OR LEASED FACILITY**

THE CITY COUNCIL OF THE CITY OF YUBA CITY DOES ORDAIN AS  
FOLLOWS:

**Section 1:** Section 9-2.23 of the Yuba City Municipal Code entitled, "Tobacco  
use prohibition at Gauche Aquatic Park," is hereby repealed:

**Section 2:** Section 9-2.23 is hereby added to the Yuba City Municipal Code to  
read as follows:

Tobacco use prohibition ~~Gauche Aquatic Park~~ **at all City parks and within 50 feet of  
any public entrance into any City owned or leased facility.**

It shall be unlawful for any person to use any tobacco product in ~~Gauche Aquatic  
Park~~ **all City parks and within 50 feet of any public entrance into any City owned  
or leased facility.** "Tobacco Product" means any substance containing tobacco leaf,  
including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco,  
dipping tobacco, bidis, or any other preparation of tobacco.

**Section 3:** This ordinance shall be effective thirty (30) days after its adoption  
and after it is adopted, it shall be published as provided for by law.

Introduced and read at a regular meeting of the City Council of the City of Yuba  
City on the \_\_\_\_\_ day of \_\_\_\_\_, 2009, and adopted at a regular meeting  
thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Mayor

Attest:

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Terrel Lock, City Clerk

APPROVED AS TO FORM:

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Timothy P. Hayes, Esq.  
City Attorney