

Item 10 – File 09-0631

**Note:** This item was continued by the Budget and Finance Committee at its meeting of July 15, 2009

**Department:** Recreation and Park Department (RPD)

**Item:** Motion ordering an ordinance to be submitted to the voters for the election to be held on November 3, 2009, authorizing an amendment to the San Francisco Administrative Code Section 4.25 to allow the Recreation and Park Department to approve, or enter into, an agreement for the naming of the City-owned sports stadium currently known as Candlestick Park. According to the ordinance to be submitted to the voters on November 3, 2009, the naming rights agreement would be subject to Board of Supervisors approval.

**Description:** Approval of the proposed motion would allow submission of an ordinance to the voters on November 3, 2009, amending the Administrative Code to permit the Recreation and Park Department to approve or enter into an agreement for the selling of naming rights to the City-owned sports stadium currently known as Candlestick Park.

Currently, the Administrative Code requires that the sports stadium be referred to as "Candlestick Park" as approved by the voters in November 2004 (Proposition H). If the voters were to approve the proposed ordinance, this Administrative Code provision would be deleted.

If the ordinance to be submitted to the voters were approved, the Recreation and Park Department could approve, or enter into, an agreement for the naming rights of the Candlestick Park sports stadium.

**Fiscal Impact:** According to Ms. Katherine Petrucione, Recreation and Park Department Director of Finance and Administration, the RPD does not have an estimate of the revenues that would be generated by a naming rights agreement for Candlestick Park.

The subject ordinance would require that not less than 50 percent of the revenues to be received by the City from the naming rights agreement be used to fund RPD recreation center directors.

**Comments:**

1. According to the motion, the ordinance to be submitted to the voters would authorize the Recreation and Park Department to approve, or enter into, an agreement for the naming of the City-owned Candlestick Park stadium, subject to subsequent Board of Supervisors approval.

However, according to Ms. Virginia Dario Elizondo, Deputy City Attorney, if the voters approve such an ordinance, the San Francisco 49ers would retain the exclusive right to enter into an agreement with a naming rights sponsor under the terms of a 2004 Naming Rights Agreement between the City and the San Francisco 49ers. That agreement was previously approved by the Board of Supervisors in July 2004 (File 04-0826)<sup>1</sup>.

Ms. Dario Elizondo states that the 2004 Naming Rights Agreement remains in effect during the term of the San Francisco 49ers stadium lease at Candlestick Park. The current lease with the San Francisco 49ers expires on May 31, 2013 with two five-year options to extend through May 31, 2023. According to Ms. Dario Elizondo, the current Naming Rights Agreement remains in effect until May 31, 2013, and would be extended if the lease is extended.

According to Ms. Dario Elizondo, if an ordinance to be submitted to the voters on November 3, 2009 is approved, any naming rights agreement with a naming rights sponsor for the Candlestick Park sports stadium would be exclusively between the San Francisco 49ers and the naming rights sponsor for the term of the San Francisco 49ers stadium lease.

2. Although the ordinance to be submitted to the voters on November 3, 2009 states that the Recreation and Park Department is authorized to approve, or enter into, an agreement for the naming of Candlestick Park, subject to Board of Supervisors approval, neither the Recreation and

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<sup>1</sup> The City and the San Francisco 49ers entered into an agreement in January 1996 in which the San Francisco 49ers could sell the naming rights to the Candlestick Point sports stadium (Naming Rights Agreement) in exchange for a fee payable to the City. The original Naming Rights Agreement expired in January 2002. The Board of Supervisors approved a subsequent Naming Rights Agreement with the San Francisco 49ers in July 2004 (File 04-0826).

Park Department nor the Board of Supervisors would have such approval under the 2004 Naming Rights Agreement previously approved by the Board of Supervisors in July 2004 (File 04-0826). Under the 2004 Naming Rights Agreement the San Francisco 49ers have the exclusive right to enter into a naming rights agreement with a naming rights sponsor for Candlestick Park without further approval unless:

- The naming rights sponsor is not one of the five sponsors pre-approved in the 2004 Naming Rights Agreement between the City and the San Francisco 49ers: (1) Wells Fargo Bank, (2) Virgin Airlines, (3) Organic, Inc., (4) Monstercable, or (5) Macromedia, Inc.; and unless
- The City's share of net naming rights revenue is less than \$3,000,000 for an undetermined period of time.

Therefore, if the voters approve the proposed ordinance, the Board of Supervisors would have no ability to approve a naming rights agreement between the San Francisco 49ers and a naming rights sponsor unless the agreement did not meet one of the two conditions noted above.

3. Under the 2004 Naming Rights Agreement between the City and the San Francisco 49ers, the City received 50 percent of net naming rights revenues. Therefore, if the voters approve the proposed ordinance, the City would receive 50 percent of net naming rights revenues if the San Francisco 49ers were to enter into an agreement with a naming rights sponsor.

4. If the voters approve an ordinance in the November 3, 2009 election, the naming rights revenues payable to the City would be General Fund revenues. According to Ms. Dario Elizondo, appropriation of such funds would be subject to Board of Supervisors approval in accordance with the fiscal and budgetary requirements of the Charter. According to Ms. Dario Elizondo, such revenues would not be specifically designated for the Recreation and Park Department, but could be used for any legal purposes of the City, subject to Board of Supervisors appropriation approval.

**BOARD OF SUPERVISORS**  
**BUDGET ANALYST**

Also, according to Ms. Dario Elizondo, although the ordinance to be submitted to the voters in the November 3, 2009 election states that not less than 50 percent of the naming rights revenue received by the City shall be used to fund Recreation and Park Department recreation center directors, such an ordinance cannot bind the Board of Supervisors to provide funding for this purpose.<sup>2</sup>

5. According to Ms. Petrucione, the Recreation and Park Department received \$2,900,000 in naming rights revenues from the San Francisco 49ers for the period from FY 2004-05 through FY 2007-08 in which the sports stadium at Candlestick Point was named "Monster Park". However, as previously stated, the RPD has no estimate of the revenues which may be realized from the proposed naming rights agreement.

6. The proposed motion on page 1, line 4 authorizes "amending San Francisco Administrative Code Section 4.24", and should be amended to state "amending San Francisco Administrative Code Section 4.25".

7. In summary, if the voters were to approve an ordinance in the November 3, 2009 election:

- The San Francisco 49ers would have the exclusive right to enter into a naming rights agreement for the Candlestick Park sports stadium with a naming rights sponsor during the term of the San Francisco 49ers stadium lease under the 2004 Naming Rights Agreement between the City and the San Francisco 49ers .
- Although the proposed ordinance states that "the Recreation and Park Department is authorized to approve, or enter into, an agreement for the naming of the City-owned sports stadium located at Candlestick Point..., subject to approval by the Board of Supervisors", according to Ms. Dario Elizondo, neither the Recreation and Park Department nor the Board of Supervisors have the right to approve any naming rights agreement between the San Francisco 49ers and

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<sup>2</sup> Ms. Dario Elizondo states that these revenues are General Fund revenues and are not required to be used for Recreation and Park Department expenditures.

a naming rights sponsor unless: (a) the naming rights sponsor is not one of the five sponsors pre-approved in the 2004 Naming Rights Agreement between the City and the San Francisco 49ers; and (b) the City's share of net naming rights revenue is less than \$3,000,000 for an undetermined period of time.

**Recommendations:**

1. Amend page 1, line 4 of the proposed motion, deleting "amending San Francisco Administrative Code Section 4.24", and adding "amending San Francisco Administrative Code Section 4.25", as discussed in Comment No. 6.
2. Approval of the proposed motion, as amended, is a policy matter for the Board of Supervisors.



CITY AND COUNTY OF SAN FRANCISCO  
OFFICE OF THE CONTROLLER

Ben Rosenfield  
Controller

Monique Zmud  
Deputy Controller

July 15, 2009

Ms. Angela Calvillo  
Clerk of the Board of Supervisors  
1 Dr. Carlton B. Goodlett Place Room 244  
San Francisco, CA 94102-4689

RE: **File 090631** – Ordinance allowing the Recreation and Park Department to enter into a naming agreement for the City-owned sports stadium located at Candlestick Point

Dear Ms. Calvillo,

Should this ordinance be approved, in my opinion, it would not in and of itself affect the cost of government and could result in additional revenue for the City.

The proposed ordinance amends the Administrative Code to allow the Recreation and Park Department to approve or enter into an agreement for the naming rights of the City-owned sports stadium located at Candlestick Point. The San Francisco 49ers currently have exclusive rights to sell and enter into agreements with five named entities listed in their 2004 naming agreement with the City. The proposed ordinance would permit the 49ers to enter into agreements with any other naming rights sponsor with prior approval from the Recreation and Park Department and Board of Supervisors.

The City has not earned naming rights revenue from the stadium since 2008. The previous naming rights agreement generated approximately \$700,000 annually for the City. The proposed ordinance could earn revenue for the City by significantly widening the pool of potential naming rights sponsors.

The proposed ordinance also specifies that at least fifty percent of the revenue received by the City from naming agreements shall be used to fund recreation center directors. However, any revenues generated from a naming rights agreement are General Fund revenues and could be used for any legal purposes of the City, subject to Board of Supervisor appropriation approval.

Sincerely,

  
Ben Rosenfield  
Controller

Note: This analysis reflects our understanding of the proposal as of the date shown. At times further information is provided to us which may result in revisions being made to this analysis before the final Controller's statement appears in the Voter Information Pamphlet.