

Red Hill Community Park Joint Powers Authority

Staff Report
June 28, 2010

For the meeting of June 30, 2010

TO: RHCP JPA Board of Directors
FROM: David Donery, Executive Director
SUBJECT: Joint Use Agreement

BACKGROUND

The Third Amendment to the Red Hill Joint Powers Agreement to Establish the Red Hill Joint Powers Authority outlines the maintenance responsibilities of the Town of San Anselmo and the Tamalpais Union High School District. The amendment goes on to outline the policies for scheduling use of the athletic fields.

DISCUSSION

The agreements for maintenance and field scheduling contained in the Third Amendment are the primary ongoing operational guidelines contained in the JPA agreement related to the day-to-day use of the park. These agreements were developed with a great deal of community input, and to a large degree ensure ongoing community access to the facility.

If the Red Hill JPA agreement were to dissolve, the Tamalpais Union High School District and the Town of San Anselmo could choose to enter into a Joint Use Agreement. This agreement could contain the language from the Third Amendment related to maintenance and scheduling, along with other agreements standard to this type of document.

ANALYSIS

The DRAFT Joint Use Agreement between the Town and the TUHSD contains language related to liability and indemnification, safety and supervision, restitution and repair of damage, and other standard items.

Two items included in the draft agreement, term and communication, are worthy of further detailed discussion.

TERM: Under Section #1, the term of the draft agreement reads as follows:

“This Agreement will become effective and begin on July 1, 2010 and will continue indefinitely unless terminated as provided for hereinafter in Section 12. The District and the Town will jointly inspect RHCP prior to the effective date.”

The other option for the term would be to give the agreement a term of “X” number of years, with an option to renew the agreement at the end of the term.

COMMUNICATION: Under Section #6 of the draft agreement, the Communication section of the agreement calls for an annual review of the agreement by a “Joint Use Interagency Team”

consisting of staff from the Town and the TUHSD. Another option could be the development of a Community Oversight Committee made up of a representative of the TUHSD the RVSD, the Town, and a public representative representing the Dog Park and another representing local youth sports. This group could meet annually along with representatives of the TUHSD and the Town to review issues related to the park.

Once finalized, the Joint Use Agreement could be submitted for approval by the Tamalpais Union High School District Board of Trustees and to the San Anselmo Town Council.

Respectfully submitted,

David Donery
Executive Director

Attachment A – Draft Joint Use Agreement

Attachment A

DRAFT Joint Use Agreement – 6/2010

AGREEMENT BETWEEN THE TAMALPAIS UNION HIGH SCHOOL DISTRICT AND THE TOWN OF SAN ANSELMO FOR USE OF THE RED HILL COMMUNITY PARK ATHLETIC FIELDS

Recitals

WHEREAS, the Red Hill Community Park ("RHCP") project was developed through a collaborative effort of the Tamalpais Union High School District ("the District"), the Town of San Anselmo ("the Town"), the Ross Valley School District, and community organizations and volunteers; and

WHEREAS, the Red Hill Joint Powers Authority was created to provide oversight to the project; and

WHEREAS, the Community Recreation Act (California Education Code sections 10900 through 10914.5) authorizes school districts and cities to organize, promote, and conduct community recreation programs and activities to promote the health and general welfare of the community; and

WHEREAS, the California Civic Center Law (California Education Code sections 38130-38138) establishes a civic center at every school for use by citizens for a variety of purposes, including recreation; and

WHEREAS, RHCP includes facilities and active use areas that are capable of being used by the Town for community recreational purposes; and

WHEREAS, under appropriate circumstances, these publicly held lands and facilities should be used most efficiently to maximize use and increase recreational opportunities for the community; and

WHEREAS, California Education Code section 10905 authorizes the governing bodies of the District and the Town to enter into an agreement to promote the health and general welfare of the community and to enhance the recreational opportunities afforded to the community; and

WHEREAS, in 2009, RHCP opened to the public, and

NOW, THEREFORE, the District and the Town agree as follows:

1. Term and Effective Date

This Agreement will become effective and begin on July 1, 2010 and will continue indefinitely unless terminated as provided for hereinafter in Section 12. The District and the Town will jointly inspect RHCP prior to the effective date.

2. Cooperative Agreement

As provided herein, the District and the Town hereby agree to cooperate in coordinating programs and activities conducted at RHCP. "Public Access Hours" shall mean the hours during which the Town or third parties use RHCP.

3. Maintenance Responsibilities

i. District Responsibilities

The District shall be responsible at its expense for operation and maintenance of RHCP, except for the dog park portion of RHCP.

ii. Town Responsibilities

The Town shall be responsible for operating and maintaining the dog park portion of the RHCP.

4. Scheduling

The District shall be responsible for scheduling use of the athletic field portion of RHCP ("the Field"). The District and the Town will cooperate regarding all scheduling of the Field to reasonably avoid conflicts. The District agrees that it will schedule use of the Field in accordance with the following priorities:

- i. The District
- ii. A. Town-operated programs
B. San Anselmo Baseball Association and West Marin Little League
- iii. Sunny Hills School
- iv. Local youth non-profit organizations
- v. Local adult non-profit organizations
- vi. Other youth non-profit organizations
- vii. Other non-profit organizations

For the purposes of the use scheduling priorities set forth above, the use by Town-operated programs shall be at an equal priority -- Level ii -- to that of the San Anselmo Baseball Association and West Marin Little League.

"Local" adult and youth non-profit organizations shall mean those organizations that primarily serve residents of the District within the Sir Francis Drake High School attendance area.

The District and the Town further agree that the District will have priority access to the Field Monday through Friday from 3:00 p.m. to 6:30 p.m. during the fall and spring athletic seasons (August 15 through November 15, and February 1 through May 31, respectively), and that the District may reserve the Field on Saturdays on an occasional basis.

Subject to the foregoing, the District and the Town agree that the Town will have priority access to the Field on weekends during the District's fall and spring athletic seasons from 8:00 a.m. to 6:00 p.m., and the entire week from 8:00 a.m. to 6:00 p.m. during the District's winter and summer breaks.

Subject to any District use requirements and to the extent permitted by applicable law (e.g., the Civic Center Act), the District further agrees to accept the recommendations

of the Town's Parks & Recreation Commission regarding specific days and hours to be set aside for non-scheduled, general public use of the Field. The District and the Town further acknowledge the right of Sunny Hills School to request use of the Field pursuant to the Easement Agreement relating to RHCP, and agree to coordinate scheduling of Sunny Hills School use.

In consideration for the Town's contribution to the creation of RHCP and its continuing maintenance of the dog park area, the District agrees that it will not assess user fees for Town-operated program uses of the Field.

5. Compliance with Law

All use of District Property shall be in accordance with state and local law. Any actions taken by the District or the Town that are required by state or local law, but are inconsistent with the terms of this Agreement, shall not be construed to be a breach or default of this Agreement.

6. Communication

a. Designation of Employees

The District and the Town shall each designate an employee with whom the other party, or any authorized agent of the party, may confer regarding the terms of this Agreement.

b. Joint Use Interagency Team

The District and the Town shall establish a Joint Use Interagency Team ("Interagency Team"), composed of staff representatives of the District and the Town, to develop the schedule for use of RHCP, to recommend rules and regulations for the District and Town to adopt to implement this Agreement, to monitor and evaluate the joint use project and Agreement, and to confer to discuss any issues that may arise.

- i The Interagency Team shall hold a conference call or meeting at least once per year to discuss any pending issues and review the performance of the joint use project. If the Joint Use Interagency Team is unable to reach a solution on any particular issue, the matter will be referred to the District Superintendent and Town Manager, or their designees, for resolution.

7. Annual Review of this Agreement

The Joint Use Interagency Team shall review the Agreement by April 30th each year to evaluate the joint use project, determine changes to the schedule, and to propose amendments to this Agreement.

8. Supervision, Security, and Inspections

a. Supervision and Enforcement

The Town shall train and provide an adequate number of competent personnel to supervise all non-District activities on the RHCP property. The Town shall enforce all of the District's rules, regulations, and policies when the Town is supervising activities or programs at RHCP.

b. Security

The District shall provide the Town with access to RHCP. The District will provide keys, security cards, and training as needed to the Town's employee(s) responsible for opening and locking the RHCP property while supervising activities or programs.

c. Inspection and Notification

The Town shall inspect the RHCP property after use to ensure that the site is reasonably returned to the condition in which it was received. The Town shall ensure that the District is notified within 24 hours in the event that RHCP property suffers damage during Town use. Such notification shall consist of written notification by letter, facsimile, or email to the District's designated employee identifying the damaged property, date of detection, and description of damage.

9. Restitution and Repair

The Town shall make restitution for the repair of damage to RHCP property during the Town's use the property.

a. Inspection and Notification

The Town shall, through its designated employee, inspect and notify the District, of any damage, as described above in subsection 8(c).

b. Repairs

Except as mutually agreed, the Town shall not cause repairs to be made to any District property, facility, building, or equipment. If it is mutually determined that the Town is responsible for damage to such property, then the Town will reimburse the District at the agreed estimated and/or fixed cost.

c. Reimbursement Procedure

The District shall send an invoice to the Town's designated employee within 14 days of completion of repairs to, or replacement of, damaged property. The invoice shall itemize all work hours, equipment, and materials with cost rates as applied to the repair work. If the repair is completed by a contractor, a copy of the contractor's itemized statement shall be attached. Actual costs shall be reimbursed if less than estimated and/or fixed costs. The Town shall reimburse the District within 30 days from receipt of such invoice.

d. Disputes

The Town shall retain the right to dispute its obligation to pay for any and all items of damage to property, facilities, buildings, or equipment, provided notice of the dispute is made within five (5) business days following the first written notice of damage by the Town or the District to the other party.

- i The Town shall provide written notice of its basis for any such dispute to the District's designated employee. Failure to provide such written notice within the prescribed time period shall be deemed an acceptance of responsibility by the Town.

- ii After proper notification, members of the Joint Use Interagency Team, or other designated representatives of the Town and District, shall make an on-site investigation and attempt a settlement of the dispute.
- iii In the event an agreement cannot be reached, the matter shall be referred to the Town Manager and District Superintendent, or their designees, for resolution.
- iv The District shall have the right to make immediate emergency repairs or replacements of Property without voiding the Town's right to dispute its responsibility to pay for the cost of such repairs or replacements.

10. Liability and Indemnification

- a. The Town shall defend, indemnify, and hold the District, its officers, employees and agents, harmless from and against any and all liability, loss, expense, attorneys' fees or claims for injury or damages, arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury are caused by or result from the negligent or intentional acts or omissions of the Town, its officers, agents or employees.
- b. The District shall defend, indemnify, and hold the Town, its officers, employees and agents, harmless from and against any and all liability, loss, expense, attorneys' fees or claims for injury or damages, arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury are caused by or result from the negligent or intentional acts or omissions of the District, its officers, agents or employees.

11. Insurance

The Town participates in a self-insurance program with Bay Cities Joint Powers Insurance Authority (BCJPIA) in which the Town has a \$100,000 self insured retention, and BCJPIA provides excess coverage (with CARMA, the California Affiliated Risk Management Authorities up to and including \$30 million in pooled liability coverage. The Town agrees to provide the District with a certificate of insurance showing the District as an additional insured under the above-described program in connection with the liability assumed by the Town under this Agreement.

The District participates in a self-insurance program <<need language here>>

12. Termination

This Agreement may be terminated at any time upon twelve (12) months written notice.

13. Entire Agreement

This Agreement constitutes the entire understanding between the parties with respect to the subject matter of this Agreement and supersedes any prior negotiations, representations, agreements, or understandings.

14. Amendments

This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement.

15. Authority To Sign

All necessary action has been taken by the District and the Town to authorize the below-named individuals to sign this Agreement on behalf of the District and the Town.

DATED: TAMALPAIS UNION HIGH SCHOOL DISTRICT

By: _____
Bob Walter

Its Board President

DATED: TOWN OF SAN ANSELMO

By: _____
Barbara Morrison

Its Mayor