

SULTAN CITY COUNCIL AGENDA ITEM COVER SHEET

ITEM NO: D-4
DATE: October 22, 2009
SUBJECT: Parks Non-discrimination policies
CONTACT PERSON: Deborah Knight, City Administrator

ISSUE:

The issue before the city council is to review the requirements of Engrossed Substitute Senate Bill 5967 to help better ensure non-discrimination with regard to community athletics programs.

STAFF RECOMMENDATION:

1. Review the requirements of ESSB 5967
2. Review the draft policy prepared by the City of Everett.
3. Direct staff to return with policies for discussion and adoption

SUMMARY:

In 2009, the State Legislature enacted Engrossed Substitute Senate Bill 5967 (ESSB 5967) to help better ensure non-discrimination with regard to community athletics programs. In brief, the law provides:

Cities, towns, counties, and park districts are prohibited from discriminating against any person on the basis of sex in a community athletics program. Each entity operating or issuing permission to operate such a program must adopt and publish a nondiscrimination policy by January 1, 2010.

School districts operating community athletics programs must adhere to these requirements, but may use and modify existing school policies to the extent possible. School districts are not required to monitor compliance, investigate complaints, or enforce school district policies as to third parties using school facilities.

The Washington Parks and Recreation Association (WRPA) worked with state legislators to ensure ESSB 5967 was enacted in a manner that enabled local parks officials to implement it in a realistic, practical way.

As adopted, key provisions of ESSB 5967 require that by January 1, 2010, local parks officials adopt non-discrimination policies to ensure gender equity; to publish such policies; to disseminate such policies to third parties that sign agreements and/or contracts to use community athletic fields; and to publish the name and address and phone number of the person or persons responsible for implementing the non-discrimination policy.

The WRPA began implementation work on the gender equity bill immediately after the close of the 2009 Session. The WRPA members put together a tool kit to help city's establish and tailor policy adoption efforts. Attachment B is a copy of the City of Everett's draft policy.

City staff recommend directing staff to prepare a draft policy for Council consideration on November 12, 2009 that meets the minimum requirements of the legislation. Staff would use the Everett draft policy as the template.

The Council could adopt the policy on December 10 to meet the January 1, 2010 deadline. If the city council has concerns, a short delay probably would not result in any significant penalties.

DISCUSSION:

Adopt Non-Discrimination Policies

The WRPA tool kit recommends adopting a "purpose statement" and "policy intent" that are a simple replication of ESSB 5967's legislative intent and a statement that the elements of the policy will guide actions of staff if needed. The City of Everett adopted the following purpose statement and policy intent:

1.0 Purpose Statement

The purpose of the Community Athletics Programs Non-Discrimination Policy is to help insure that the department's and third party sponsored athletics/sports programs and the department's facilities that support athletic/sports programs, provide equal opportunity and access for both boys and girls, and women and men.

The principles, goals, strategies, programming and facility accessibility, policy distribution, and policy administration will guide the department's actions with respect to gender.

1.1 Policy Intent

The intent of this policy is to achieve the following:

- a) expand and support equal participation in athletics/sports programs; and
- b) provide all athletics/sports programs equal access to facilities.

Disseminate Policies to Third Parties

Since the City of Sultan does not provide recreation programs either directly or through contracts, it appears the biggest impact is to ensure that organizations, such as the Sultan School District and local little league clubs who use or rent city facilities have a copy of the city's policy.

For example, the city's fee schedule and rental agreements would be amended to include the following:

The City of Sultan complies with the State of Washington's "Fair Play in Community Sports Act" (Chapter 467, 2009 Laws, effective date July 26, 2009) that prohibits discrimination against any person in a community athletics program on the basis of sex. Any questions or comments please contact Connie Dunn, Public Works Director at 360-793-2231.

The City of Everett has the following draft policy:

A variety of media will be used to publish and disseminate the City of Everett's Community Athletics Programs Non-Discrimination Policy and contact information. In some media, the policy will be referenced with respect to its applicability and availability; in other media, the policy will be included in athletics/sports programs information "packets." The media to be employed will be the following:

- 7.1 Publications related to the department's and third party sponsored community athletic/sports programs (policy reference)
- 7.2 Applications for scheduled facility use (policy included)
- 7.3 City of Everett Web Site (policy included)
- 7.4 Information flyers, notices, advertisements (policy reference)

Publish the Contact Person Responsible for Implementing the Policy

The city must adopt administrative procedures to implement the policy. The WRPA recommends addressing implementation, monitoring, grievance procedures, and the responsible official. Sample implementation policies are not yet available from the City of Everett or other agencies. Staff will continue to monitor other cities efforts to develop implementation policies.

FISCAL IMPACT:

The fiscal impact is administrative at this point. The city will need to amend its written policies and monitor to ensure implementation. There may be additional costs in the future if the city ever develops a recreation program.

ALTERNATIVES:

1. Review the requirements of ESSB 5967 and direct staff to prepare a draft policy for the city council's consideration. This alternative implies the council supports using the Everett policy as a template with changes to fit the Sultan community.
2. Review the requirements of ESSB 5967. Direct staff to wait until after January 1, 2010 to begin working on a policy. This action implies the city council would like to wait until other cities adopt policies to get a broader sense of the collective approach to implement the law.

RECOMMENDATION:

1. Review the requirements of ESSB 5967
2. Review the draft policy prepared by the City of Everett.
3. Direct staff to return with policies for discussion and adoption

ATTACHMENT

A – City of Everett Draft Community Athletics Programs Non-Discrimination Policy

**City of Everett's Park and Recreation
Department's**

**Community Athletics Programs
Non-Discrimination Policy**

**Recommended by Everett Park Board of
Commissioners**

Date _____

Adopted by Everett City Council

Date _____

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1.0 Purpose Statement

The purpose of the Community Athletics Programs Non-Discrimination Policy is to help insure that the department's and third party sponsored athletics/sports programs and the department's facilities that support athletic/sports programs, provide equal opportunity and access for both boys and girls, and women and men.

The principles, goals, strategies, programming and facility accessibility, policy distribution, and policy administration will guide the department's actions with respect to gender.

1.1 Policy Intent

The intent of this policy is to achieve the following:

- a) expand and support equal participation in athletics/sports programs; and
- b) provide all athletics/sports programs equal access to facilities.

1.2 Background

Title IX bans discrimination on the basis of sex in any education program or activity that receives money from the federal government. The most prominent and well known application of this law has been in the arena of high school and college sports programs.

Outside of the formal structure of high school and collegiate sports programs, boys and girls participate in a variety of community, private-non-profit and private-for-profit athletic programs, and mostly utilizing public sector provided facilities. Generally, initiatives are underway within several states and municipalities to evaluate the state of gender equity regarding community based facility use and programming utilizing the standards that are typically applied to determine compliance with Title IX. These include for example, facility condition, equipment quality, practice and game scheduling comparability, and the experience level of coaches.

The National Recreation and Parks Association (NRPA) recognized that parks and recreation agencies have an important role in promoting gender equity with respect to its members' facilities and recreation programs. In 2002, NRPA stated that it "...encourages park and recreation agencies to ensure that facilities are developed and programs are implemented so they meet male and female recreation needs." NRPA followed this up in 2007 with an "Advocacy Update." NRPA urged that policymakers "...provide facilities and services to achieve the statutory objectives of Title IX: providing both female and male athletes with equitable opportunities to participate and access to quality services and treatment."

In September, 2004, California Governor Schwarzenegger signed Assembly Bill 2404. The legislation applies the gender equity principles (e.g. practice and game scheduling) within Title IX to the administration of municipal athletic programs.

In particular, section 1(f) reads, in part, that “it is the intent of the Legislature to expand and support female participation in youth athletics programs and activities, to provide female youth sports programs equal access to facilities administered by local governments...”

Within Washington State, several organizations have been active and supportive in advocating for sports gender equity within the parks and recreation industry. In addition to the Washington Recreation and Parks Association (WRPA), they have included the American Civil Liberties Union of Washington, the Women’s Sports Foundation, the Northwest Women’s Law Center, the National Organization of Women of Washington and the Association of Washington Cities. And in the 2009 state legislative session, Engrossed Substitute Senate Bill 5967 was passed and signed by Governor Gregoire. This legislation represents the state’s policy interest in promoting gender equity related to community athletics programs.

1.3 References

The department’s Strategic Plan, adopted by City Council in March, 2007, provides the first reference for this policy. The department’s vision statement identifies that the department is committed to a) meeting community values; and b) supporting the need and desire for accessible parks, facilities and programs for people of all ages.

The city of Everett’s Anti-Discrimination and Harassment Policy, updated and effective on July, 2007 is this policy’s second reference. It identifies that the city of Everett is committed to maintaining a work environment that is free of discrimination and harassment.

The third reference for this policy is Washington State Law ESSB 5967 passed by the 2009 state legislature and signed into law by Washington Governor Gregoire on **Fill in the Date** 2009. ESSB 5967 prohibits discrimination by all cities, towns, counties, metropolitan park districts, park and recreation service areas, park and recreation districts and third parties receiving leases or permits from cities, towns, counties or districts in the provision and/or leasing of facilities to accommodate community athletic programs as defined by this act of the state legislature.

2.0 Definitions

Word

Access

Definition

Related to facility use. It is the opportunity to use a facility that supports the provision of community athletic/sports programs.

Administer/Administrating

The department’s administrative process to manage and supervise the provision of community athletics/sports programs.

Adopt	The official act by the City Council of Everett, through a resolution, to vote to accept and formally place into effect, the department’s Community Athletics Programs Non-Discrimination Policy.
All	As related to athletic/sports programs and their use of facilities, it is the accommodation of the utmost possible number of athletic/sports programs based upon use criteria such as but not limited to a) safety; b) facility configuration; c) facility capacity by day/time of desired use; d) impact to equal participation by gender; e) relationship between recreational versus “select” participation; and f) the relationship between resident and non-resident participation.
Athletics Programs	Departmental or third party sponsored sports engaged in by athletes that require physical exercise and generally accepted rules and must include the following: a) participant registration; b) scheduled practices; and c) formal competition against other athletes during a defined season.
Conduct(ing)	A synonym to “operate(ing), it is the department’s effort to direct or control the process of providing community athletics/sports programs.
Discrimination	The unequal treatment of persons, for a reason which does not have anything to do with peoples’ legal rights.
Equal	As related to participation in community athletic/sports programs, equal means either of the following: a) making available the same number of program participation slots to males and females, whereby in total, participation opportunity slots in department sponsored athletic/sports programs is identical; b) scheduling of facilities that affords males and females who participate in department programs, the same privileges and rights such as facility use by day, time of day and quality.
Expand	Department initiatives to increase an athletics/sports programs opportunity that increases the probability of equal participation by gender.
Disseminate	The department’s process to dispense knowledge and content of its Community Athletics Programs Non-Discrimination Policy.

Facilities	Any outdoor or indoor location that is scheduled to accommodate the provision of community athletic/sports programs, including athletic surfaces (e.g. fields, courts) park open space, gymnasiums or halls.
Operate(ing)	Any community athletic/sports program that the department runs or controls in order to insure that it functions in an effective manner.
Policy	As related to the department’s Community Athletics Programs Non-Discrimination Policy, it is generally the principles, goals, strategies, and procedures outlined to guide staff in determining present and future courses of action.
Publish	The process to make known to its staff and third party community athletic/sports program providers the department’s Community Athletics Programs Non-Discrimination Policy.
Sports Programs	Synonymous with “athletics programs” (see above).
Support	Department initiatives that promote the interests of equal participation in community athletic/sports programs. Initiatives can include, but may not be limited to advocacy, programming and facility use policy and financial aid.

3.0 Principles

- 3.1 The city of Everett Parks and Recreation Department will conduct and operate its community athletics/sports programs in a manner that demonstrates a good faith effort to achieve its non-discrimination policy goals over time.
- 3.2 The city of Everett Parks and Recreation Department will develop, implement and maintain community athletic/sports programs and facilities that helps meet the recreational needs of females and males.
- 3.3 The application of the department’s Community Athletics Programs Non-Discrimination Policy is prioritized as follows: support and expand community athletics/sports opportunities for recreational programs followed by select programs. **(NB. This principle is actively being revised to improve its clarity.)**
- 3.4 The city of Everett Parks and Recreation Department is committed to assisting public school districts comply with their federal Title IX requirements when the districts request use of departmental facilities.

3.5 The city of Everett Parks and Recreation Department will consider school districts' requests in light of the department's community athletic/sports programs, obligations, vision and mission statements, finances, facilities and consistency with this non-discrimination policy.

3.6 All city of Everett Parks and Recreation Department employees are committed to cooperate in fulfilling the intent of the Community Athletics Programs Non-Discrimination Policy.

4.0 Goals and Objectives

The city of Everett's Community Athletics Programs Non-Discrimination includes a series of goals and objectives. The goals establish the broad based intended outcomes that are envisioned through implementation of this policy. Each of the goals has one or more objectives. The purpose of the objectives is to identify measurable actions, milestones and/or metrics to help the city's parks and recreation department determine if it is making progress in achieving the stated goals.

4.1 Goal Number One

The parks and recreation department will operate and conduct community athletics/sports programs in a manner that helps to expand and support equal participation in athletics/sports programs.

4.1.a Objective Number One

Offer a ratio of athletics/sports programs and the aggregate and proportional to the gender makeup of the city of Everett.

4.1.b Objective Number Two

Improve the representation of females in community athletics/sports programs where they are not adequately represented.

4.1.c Objective Number Three

On an annual basis, discuss with third party facility users the status of their athletics/sports programs related to administration of the City's Community Athletics Programs Non-Discrimination Policy.

4.2 Goal Number Two

The parks and recreation department will operate and conduct community athletics/sports programs in a manner that provides all athletics/sports programs equal access to facilities.

4.2.a Objective Number One

The parks and recreation department will keep track of general participation levels of males and females by sport on a quarterly basis.

4.2.b Objective Number Two

On an as needed basis, develop additional facility capacity (e.g. scheduling, turf surface, and/or surface square footage) over time to help insure that equal access opportunities exist for athletics/sports programs.

4.3 Goal Number Three

Undertake measures to encourage females to participate in community athletics/sports programs by providing additional opportunities for participation.

4.3.a Objective Number One

The parks and recreation department will proactively seek to increase the number of female participants, coaches, referees and instructors in its own community athletics/sports sponsored programs.

4.3.b Objective Number Two

The department's athletics core business plan marketing section will specifically include advocacy and promotion strategies to be employed in order to increase opportunities for female participation.

5.0 Programming Accessibility

TBD

6.0 Facility Accessibility

TBD

7.0 Policy Distribution

A variety of media will be used to publish and disseminate the city of Everett's Community Athletics Programs Non-Discrimination Policy. In some media, the policy will be referenced with respect to its applicability and availability; in other media, the policy will be included in athletics/sports programs information "packets." The media to be employed will be the following:

7.1 Publications related to the department's and third party sponsored community athletic/sports programs (policy reference)

7.2 Applications for scheduled facility use (policy included)

7.3 City of Everett Web Site (policy included)

7.4 Information flyers, notices, advertisements (policy reference)

8.0 Policy Administration

TBD

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