



AGENDA
Library Board of Trustees
Tuesday, November 8, 2016
2:00 p.m.
Library Board Room

CALL TO ORDER

Roll Call: President Mirek Gorny, Trustee Elmer Cameron, Trustee Ron Guiles, Trustee Gary Knight, Trustee Mayra Salazar

ORAL COMMUNICATIONS

The public may address the Board of Trustees on any item which is not on the agenda at this time, provided the item is within the subject matter jurisdiction of the Library Board of Trustees. (Refer to the last page for instructions.)

APPROVAL OF MINUTES

1. Approval of minutes from the Library Board of Trustees Meeting on October 11, 2016.

CURRENT BUSINESS

2. Library Code of Conduct Policy: Recommended Revisions
3. Update on Grape Day Park New Library Task Force

OTHER REPORTS

4. Director of Library and Community Services and Assistant Library Director

ADJOURN

(List of Special Programs and Library Events continue on Page 2)



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Date & Time	Location	Event
November 11 All Day	All Library Facilities	Closed for Veterans Day Holiday
November 12 3:00 p.m.	Turrentine Room	<i>2nd Saturday Concert Series</i> presents Q-Ban Street Band
November 19 12:00 p.m.	Turrentine Room	<i>Shakespeare Saturdays with Globe for All</i> <i>Measure for Measure</i> Performed Live
November 19 3:30 p.m.	Turrentine Room	<i>Rincon Literario:</i> <i>El libro secreto de Frida Kahlo/The Secret Book of Frida Kahlo</i> by F.G. Hagenbeck.
November 24-25 All Day	All Library Facilities	Closed for Thanksgiving Holiday
December 1 3:30 p.m.	Turrentine Room	<i>Holiday Tree Trimming Party</i>
December 2-3 6:00 p.m.	Friends of the Library Book Shop	<i>50% Off Sale</i>
December 3 10:30 a.m.	Turrentine Room	<i>Broke A\$\$ Holidays</i>
December 10 3:00 p.m.	Turrentine Room	<i>2nd Saturday Concert Series</i> presents San Diego Chamber Music Society Brass Quartet



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UPCOMING MEETING SCHEDULE

Library Board of Trustees Meetings are scheduled the second Tuesday of the month in the Library Board Room. Meetings begin at 2:00 PM.

<i>Day</i>	<i>Date</i>	<i>Time</i>	<i>Location</i>
Tuesday	December 13, 2016	2:00 p.m.	Library Board Room
Tuesday	January 10, 2017	2:00 p.m.	Library Board Room
Tuesday	February 14, 2017	2:00 p.m.	Library Board Room

ADDRESS THE LIBRARY BOARD OF TRUSTEES

Please complete a *Speaker Form* and hand it to the Library Division Coordinator. Submit the *Speaker's Form* prior to Oral Communications or the discussion of an agenda item, including items on the Consent Calendar. Comments are generally limited to 3 minutes. Note: Depending on the number of requests, comments may be reduced to less than 3 minutes per speaker.

Oral Communication: The public may address the Board of Trustees on any item which is not on the agenda during Oral Communications, provided the item is within the subject matter jurisdiction of the Library Board of Trustees. Speakers are limited to only one opportunity to address the Board under Oral Communications. State law prohibits the Library Board from discussing or taking action on such items, but the matter may be referred to the Director of Library and Community Services/staff or scheduled on a subsequent agenda.

Agenda Item: The public may address the Library Board of Trustees on any agenda item, including items on the consent calendar.

Handouts: Handouts for the Library Board of Trustees should be given to the Library Division Coordinator.

To address the Board, when called, please STATE YOUR NAME FOR THE RECORD.



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AGENDA, STAFF REPORTS, AND BACK-UP MATERIALS ARE AVAILABLE:

- Online at <https://www.escondido.org/LBT-agendas.aspx>
- Additional online posting at library.escondido.org/library-board-of-trustees.aspx
- In the City Clerk's Office at City Hall.
- In Escondido Public Library (239 South Kalmia Street) during regular business hours.

AVAILABILITY OF SUPPLEMENTAL MATERIALS AFTER AGENDA POSTING:

Any supplemental writings or documents provided to the Library Board of Trustees regarding any item on this agenda will be made available for public inspection in the City Clerk's Office located at 201 North Broadway during normal business hours, or in the Library Board Room while the meeting is in session.

Please Turn Off All Cell Phones While The Meeting Is In Session

ESCONDIDO PUBLIC LIBRARY HOURS

Monday & Tuesday	10:00 a.m. – 8:00 p.m.
Wednesday, Thursday & Friday	10:00 a.m. – 6:00 p.m.
Saturday	10:00 a.m. – 5:00 p.m.

**Escondido Public Library Board of Trustees
BOARD MEETING MINUTES
Tuesday, October 11, 2016, 2:00 p.m.
Library Turrentine Room**

CALL TO ORDER: Trustee Gorny called the meeting to order at 2:05 p.m.

Members Present: Trustees Mirek Gorny, Elmer Cameron, Ron Guiles, Gary Knight, Mayra Salazar

Members Absent: None

Staff Present: Graham Mitchell, City Manager; Loretta McKinney, Director of Library & Community Services; Cynthia Smith, Assistant Library Director; Joanna Axelrod, Principal Librarian; Misty Breymeyer, Division Coordinator; Viktor Sjöberg, Adult Services Senior Librarian; John Donel, Technology and Support Services Senior Librarian; Lalitha Nataraj, Interim Literacy & Youth Services Senior Librarian

Presenters: Ken Erickson Group: Ken Erickson, Local Architect; Steve Nelson, Local Attorney; Brad Burke, Local Architect

Guests: Marta Palmerton, Escondido Library Foundation Secretary; Linda Atkinson, Friends of the Library Director; Eula Stephens, Friends of the Library Director and Shop Coordinator; Georgia Chonko, Friends of the Library Director; Joan Neumann, Friends of Literacy Services President; Marlene Hoover, Friends of the Library Director, Bob Will, Pioneer Room Friends President; Teddy Borja, Pioneer Room Friends Vice President; Robin Fox, Pioneer Room Friends Treasurer; Alexa Clausen, Pioneer Room Friends Board Member; Lucy Berk, Pioneer Room Friends Board Member Emeritus

Written/Oral Communications: None

Agenda Item #1: Approval of minutes: September 13, 2016 meeting

Motion by Trustee Cameron and seconded by Trustee Guiles to approve the minutes as written. Motion carried unanimously.

Current Business

Item #2: Update on Grape Day Park New Library Task Force

Director McKinney welcomed and introduced the presenters. Mr. Erickson, Mr. Nelson, and Mr. Burke started a grassroots movement called People to the Park which has been discussing Library and other community issues for more than 15 years. The group is made up of members of the community who are very passionate about seeing Escondido become a positive and attractive place for families and generations to come. Mr. Nelson started the presentation with an idea-scape and vision of the direction they would like to see the community move towards. He said the presentation was not a means of selling the idea, but rather encouraged the public to join in dreaming about the

future of Escondido. The goal is to have additional walking points in the downtown area. The Library is an important part of this community vision.

Mr. Nelson gave a brief timeline history of both Grape Day Park and the Library. Historically, Grape Day Park was a centerpiece for Escondido culture and events, and the Carnegie Library was a partnership with the community. Development trends show community gathering places being situated in downtown areas, drawing people into the core of each city. The idea is to attract more people in the park for all types of activities, including commercial, social, business, and residential living. The plan for expanding Grape Day Park and moving the Library to a new location has been reenergized by Council Member Masson and City Manager, Graham Mitchell.

Mr. Erickson added, in 2005 the economy was better and there became a new interest in living and working in downtown. Grape Day Park was discussed as becoming a new community hotspot surrounded by suburban development, the Center for the Arts, and City Hall. At that time, Mr. Erickson's group did an informal study where they analyzed the downtown zoning and density as part of the process to grow this idea, and to see if it was feasible. The current master plan shows growth in both commercial businesses and residential properties in the downtown area, but the issue is the limited open space.

Mr. Burke expanded on this idea by showing what the current downtown area looks like. The map included areas zoned for commercial, mixed-use, and housing incorporated in, and surrounding, the current allotted open space. By expanding the open space of the park, and adding amenities that would appeal to all, the park would become a source of pride, the core of the City. This type of project elevates the quality of life which has been seen in other areas around the County. This idea allows for great potential and opportunity for economic development within the City.

Mr. Burke reviewed six way cities use parks to grow the local economy:

- Real property values are positively affected.
- Municipal revenues are increased as a result of tax base.
- Affluent retirees are attracted and retained.
- "Knowledge" workers and talents are attracted to live and work in the downtown areas.
- Home buyers are attracted to purchase homes.
- Area around the park begins to attract small businesses.

Mr. Erickson shared the suggested plan to expand the park to Washington Avenue. A rendering showed a mix of community centers, a new pool, a new parking garage, residential housing, mixed-use facilities, and a new library facility with a café. Facilities and amenities are grouped based on types of activities to not conflict with the harmony of the park, but to still activate the park with patrons and visitors. There would be revenue generating possibilities through leased space, potentially even within the new library itself. The group imagines a new library would have 4-5 stories, and the top floors could be leased, possibly to a school much like San Diego Public Library has done in their new facility. New revenue could be used to offset the cost of the development and ongoing maintenance.

To engage with the community, the group met with the Escondido Creek Conservancy about the idea, and they discussed reverting to a more natural look for the channel. Also, a new tree-lined median is suggested for Broadway to add to the overall park-like feel along the large street, adding ambiance to the area.

Mr. Nelson opened up discussion to answer questions from the attendees. Teddy Borja said the Escondido Creek was once a nice space that included a stage for community performances. He went on to ask what the security plan was for this project. He was concerned about the current homeless situation the park faces. City Manager Mitchell responded that this issue will not vanish, and that the greatest cure for this issue is people. People in the park area, doing normal business, creates a situation where the homeless population finds another location to hang out. He gave the example of the recent *Pokemon Go* craze in which the City saw a higher number of people in the park and a decrease in the number of homeless. Mr. Erickson added, we use the word activate, but in this case it would be "reactivate," to bring all walks of life into the park. In larger cities the homeless coexist with other visitors, or they leave. The vision includes mixed-use amenities, which means there will be a 24 hour presence by adding residential properties in and around the park which is expected to help much of the problem.

Mr. Borja asked about the financing plan for such a project. City Manager Mitchell said staff have only been asked to review the feasibility of the bringing the Library to Grape Day Park. The thought is there could be a mix of public and private partnerships as well as Federal funding opportunities. Comparatively, the costs associated with renovating and expanding on the existing site are very similar to those of moving the Library to the park.

Trustee Guiles voiced his support for the proposed plan and said the citizens need to be at the forefront of the community. His concern is by expanding the project to Washington Avenue, there could be a delay in the project development and construction of the Library as a result of legal issues with the businesses that would be affected. City Manager Mitchell responded that the staff report to be presented to City Council will have two suggested sites; site one will have the Library placed on the corner of Woodward Avenue and Escondido Boulevard; and the second site will have the Library placed on the corner of Washington Avenue and Escondido Boulevard. He feels the Library will be the catalyst for the overall expansion of the park. If people get behind this idea, it may create the best possible chance for the greater vision.

Ms. Alexa Clausen asked what the plan would be for the current Library property, if it would be sold and developed. City Manager Mitchell said the idea includes selling the current property for mixed-use development as part of funding the new Library. Ms. Clausen also voiced her concerns that a need for branch libraries might be greater to provide better access for individuals in heavily populated areas of the City. The suggested plan doesn't address these corridors of Escondido where services have been diminished in recent years. City Manager Mitchell stated the past model of library services through branches was a 20th century idea, and we no longer live in economic times that support this model. There has been a structural shift in how money is allocated, we may not be in position to have this option again. The idea is to

concentrate resources into one library that creates economic creativity and viability. A center where people can come and bounce ideas off one another.

Ms. Marlene Hoover asked if there was a transportation plan for getting people to the Library downtown. City Manager Mitchell said that a project like this could provide a level of critical mass which would call for improving transportation to the downtown area. Currently Escondido's downtown is not big enough to justify this change.

Trustee Knight asked what kind of focus or energy can be created to make a connection between the Library and education, and a civic cultural component that will drive people to Grape Day Park. Something tying all the facilities together and creating a synergy through focused branding. Mr. Erickson responded that combining a new library, recreation center, and a cultural center in one area creates a regional hub. If you were to add Grand Avenue businesses to that, you would have a full-service area. Escondido is unique in that it doesn't have a specific resource or beach from which to draw people in, or create their identity. We need to self-determine who we want to be and create a focal point that draws people in to make it a viable place to live.

Mr. Bob Will gave his compliments to the group for coming up with this concept and felt a master plan like this is essential. He questioned how the other civic functions would be attractive to drawing in people. City Manager Mitchell said the East Valley Community Center's gymnasium is at capacity and the new recreation center would serve the overflow needs. There is also a great need in our community for a new pool that can service high schools throughout the year. These would bring civic uses to the downtown area.

Mr. Erickson explained that City Manager Mitchell has reached out to local schools to see if they would be interested in becoming tenants within a new library facility. Mr. Will commented that the master plan should include direction on what kind of agency should be included. City Manager Mitchell followed up by saying setting the bar high will add value to the downtown area.

Ms. Lucy Berk said the vision is much more appealing and exciting than fitting the library into the current existing Grape Day Park. The Library would become the jewel of Escondido.

Trustee Knight suggested reaching out to explore unusual funding sources; technology or Hollywood companies that might be interested in contributing. He added identifying funding sources can define the resources.

City Manager Mitchell let all in attendance know the Task Force's staff report will be presented to the City Council on Wednesday, October, 19, 2016, at 4:30 p.m. He encouraged all to attend the meeting to express their opinions on the project.

Other Reports

Item #3: Director of Library & Community Services

Assistant Director Smith reviewed the list of Library programs and events included in the agenda.

Adjourned: Trustee Gorny adjourned meeting at 3:06 p.m.

Mayra Salazar, Library Board of Trustees Secretary/mb



LIBRARY BOARD OF TRUSTEES

Agenda Item No. 2
Date: November 8, 2016

TO: Library Board of Trustees
FROM: Cynthia Smith, Assistant Library Director and
Joanna Axelrod, Principal Librarian
SUBJECT: Library Code of Conduct Policy: Recommended Revisions

Recommendation: It is requested that the Library Board of Trustees review and approve the bulleted changes described in this staff report.

Background:

Library policies are reviewed periodically by Library Administration to ensure they are up-to-date, clear, concise, and serve their intended purpose. The Code of Conduct presented has been revised to create one uniform, streamlined policy to govern the Library and Community Services Department's facilities.

The essential elements of the Code of Conduct remain intact but have been re-grouped into new sections entitled "Rules Applicable to All Department Programs and Facilities" and "Rules Specific to Library Programs and Facilities". A revised version of the current Code of Conduct policy is attached for review. This is not a red-lined view as it would have created more confusion than assistance. The bulleted items below provide a summation of the proposed changes:

- Replace "Library" with "Department facilities" in numerous statements to make them equally applicable to Community Services facilities.
- Addition of the statement "Users, or parents of minors who are users, are responsible for damages to the equipment, as stated in State of California Education Code Section 19910. Do not alter computer settings or engage in illegal activities, including but not limited to copyright violations, harassment, fraud, or making unauthorized entry to any other machine accessible via the network. Malicious or illegal misuse of the computer or Internet access is punishable by fine or imprisonment and is subject to prosecution by authorities."
- Addition of the statement "Users assume all risk associated with the use of personal electronic devices and/or Library technology. The Library makes no guarantees about the security of wired or wireless networks."

- Language of the Disciplinary Process for Department Programs and Facilities has been revised by the City Attorney and the length of time for which an offender can be suspended from the Library for a second incident has been increased to three days.

The recommended changes to this document have been reviewed and approved by the City Attorney's Office. Once approved by the Library Board of Trustees, the updated Code of Conduct will subsume, and make obsolete, the following policies which will no longer be used: *Internet Use Policy, Computer Use Policy, Wireless Policy, and Unattended Child Policy.*

The current Code of Conduct is accessible on the Library's website <http://library.escondido.org/code-of-conduct.aspx>, in the Library Administration Office, and at all public Information Desks. Upon approval, the revised edition will be made available at all of these locations.

Respectfully Submitted,



Cynthia Smith
Assistant Library Director



Joanna Axelrod
Principal Librarian



ESCONDIDO PUBLIC LIBRARY MEMORANDUM

CITY OF ESCONDIDO LIBRARY AND COMMUNITY SERVICES DEPARTMENT

CODE OF CONDUCT POLICY

In order to provide the community with an atmosphere of safety, courtesy, integrity, and respect, the Library and Community Services Department has developed a "Code of Conduct Policy." This Policy applies to all participants, facility users, recognized organizations or groups, staff and volunteers in all programs, activities, and facilities operated or managed by the Library and Community Services Department. Each participant is responsible for regulating his or her own conduct in a positive, productive, and mature manner. In matters of general conduct, participants shall be governed by the ordinary and reasonable rules of behavior observed by law-abiding and self-respecting citizens.

All participants and Department staff have the right to be safe, and feel safe, while attending a Library or Community Services facility or program. With this right comes the responsibility to be law-abiding citizens and to be accountable for actions that put the safety of others or oneself at risk.

Additionally, the control of facility use through the application process is necessary to ensure equitable use and availability to all residents. Facility uses are governed by policies approved by the City Council or Library Board of Trustees. Responsibility for administering facility use is delegated to the City Manager and is executed by the Library and Community Services Department. This Policy encourages maximum public use and enjoyment of Department facilities.

Facility and program users who wish to request a modification because of a disability and who need accommodation are invited to present their requests to the City by filling out a Request for Accommodation Form, or by calling the City's ADA Coordinator at 760-839-4643.

ACCESS TO LIBRARY MATERIALS AND SERVICES

The freedom of access to ideas and information is essential to a democratic society, and the equality of access to information is one of the highest priorities of the Escondido Public Library. The Library's Board of Trustees affirms its support of Article V of the *Library Bill of Rights* which protects the right of an individual to use a library regardless of origin, age, background, or views. Additionally, the Board acknowledges the Library's responsibility to safeguard the accessibility of information for those in our society who cannot afford to obtain such information through commercial means.

Approved by Library Board of Trustees: 9/1/01; 12/11/14; 6/14/16

Accordingly, the Library Board of Trustees will seek to impose the minimum number of restrictions on Library facilities and resources necessary to protect the public's right of access to Library facilities, to ensure the safety of users and staff, and to protect Library resources. No one will be denied use of the Library merely because of his or her appearance or negative, subjective reactions from others. Further, all Library rules shall be enforced evenhandedly, and not in a manner which would arbitrarily benefit or disfavor any person or group.

STANDARDS OF CONDUCT

All users, program participants, organizations and groups, staff, volunteers, and visitors to Library and Community Services Department facilities or programs are expected to:

- A. Support the purpose, structure, codes, and policies of the City of Escondido, and the Library and Community Services Department, including the City's Discrimination, Harassment and Retaliation Prevention Policy and Drug-Free Workplace Policy.
- B. Abide by Federal, State and Municipal laws and all posted rules and regulations, including this Code of Conduct and both the Library's and Community Services Department's facility use policies.
- C. Accept the City's, and the Library and Community Services Department's, chain of command.
- D. Comply with the decisions of Library and Community Services Department staff, follow the established grievance procedure and appeal process when concerns arise, and abide by disciplinary action imposed by Department staff.
- E. Treat all members of the community, participants, staff and volunteers with respect by using courteous language at all times and refraining from any disparaging remarks, verbal abuse or aggressive behavior.
- F. Show proper care and regard for City property and the property of others and make a reasonable effort at cleanup, returning the area to its condition immediately prior to use.

RULES FOR SAFETY AND ACCESSIBILITY

Rules Applicable to All Department Programs and Facilities

- 1. Smoking, use of related tobacco products, or e-cigarettes, is not permitted in any Department facility. Please respect others by smoking only in designated areas at least 80 feet from any building entrance or exit.
- 2. Weapons of any kind are prohibited at any Department facility.
- 3. Alcohol consumption and persons under the influence of alcohol or non-prescribed drugs are not allowed at any Department facility.

4. Children under the age of 10 must be accompanied at all times by a parent, guardian, or other responsible person. Department staff is not responsible for the supervision of minor children left unattended. Minor children who remain at Department facilities after closing may be referred to the Escondido Police Department in order to ensure their safety.
5. The use of incendiary devices, such as candles, matches, and lighters, is prohibited inside Department facilities.
6. All bicycles must be locked to a bicycle rack, unless there is no open space available. Bicycles may not be locked to trees or other objects at any Department facility.
7. There will be no media or commercial photography or filming without prior permission. Interested parties must submit a "City of Escondido Filming/Photography Permit Application" for review and approval before proceeding.
8. Unreasonable use of rest rooms, including laundering and bathing, is prohibited.
9. People, animals, or property must not block facility entrance areas, aisles, doorways, stairways, elevators, or ramps, or interfere with the free flow of pedestrian traffic in such areas.
10. Animals, other than service animals assisting persons with disabilities, are not permitted inside Department facilities.
11. Shirts and shoes are required and must be worn at all times while in Department facilities.
12. Sleeping or lying on the floor or furniture is prohibited. Feet must remain on the floor and not on the furniture. In addition, sleeping, or sitting on the ground in or among bushes or shrubs outside Department facilities, is prohibited.
13. Vandalizing or abusing materials, equipment, or facilities is prohibited, including, but not limited to, such actions as spitting or littering.
14. Panhandling or soliciting as defined by Escondido Municipal Code Section 18-107 is prohibited on Department property.
15. Signature gathering for petitions is permitted outside Department facilities, but must not block the entrance or exit.
16. Selling merchandise without prior permission from the Director of Library and Community Services or the Director's designee is not allowed.
17. Any activity or condition that unreasonably interferes with user or staff comfort, safety, use, or quiet and peaceful enjoyment of the facility or program is prohibited, including, but not limited to:
 - a) Harassing or threatening users or staff.
 - b) Staring at, following, or photographing users or staff.
 - c) Making any loud or unreasonable noise or other disturbance such as running or talking loudly.
 - d) Disruptive use of personal communications or entertainment devices, such as cell phones, head phones, and radios.
 - e) Offensive body odor due to poor personal hygiene, overpowering perfume, or cologne.
 - f) Excessive public displays of affection.

Rules Specific to Library Programs and Facilities

18. All drinks must be in covered containers. Food consumption is limited to the Turrentine Room during scheduled events, and outside on the Library's patio.
19. Staff may restrict adult use of Children and Teen areas, including the Children's restrooms, in order to ensure the adequate protection of Library facilities and of persons and property therein.
20. Personal possessions brought onto Library property are subject to the following:
 - a) Size must be limited to no larger than a student's typical book bag (approximately 10" x 16" x 24").
 - b) Number of parcels is limited to two per person.
 - c) Items inappropriate for Library use, including, but not limited to, bicycles, tools, and wagons, are not allowed in the Library.
 - d) Personal possessions should not take up seating or space needed by others.
 - e) The Library is not responsible for loss or theft of personal belongings left unattended.
 - f) The Library does not provide storage of personal property.
 - g) Personal possessions may not be stored anywhere on Library property, including in or behind bushes, trees, shrubs, and/or walls next to Library-owned buildings. For security reasons, unattended items left inside or outside facilities on Library property are subject to removal and disposal.
21. Roller skates, scooters, skateboards, bicycles, or other similar devices must not be used on Library property.
22. Public Computers and WiFi access are filtered. It is illegal to view child pornography. If such actions are observed, the police will be called immediately. If a complaint is received regarding the viewing of a site(s) that is offensive, including sites viewed on wireless enabled computers and devices, the Library user must navigate away from such sites immediately. Failure to comply with this Policy will result in removal from Library computer areas, according to the Disciplinary Process described in this Policy.
 - a. Users, or parents of minors who are users, are responsible for damages to the equipment, as stated in State of California Education Code Section 19910. Do not alter computer settings or engage in illegal activities, including but not limited to copyright violations, harassment, fraud, or making unauthorized entry to any other machine accessible via the network. Malicious or illegal misuse of computer or Internet access is punishable by fine or imprisonment and is subject to prosecution by authorities.
 - b. Users assume all risk associated with the use of personal electronic devices and/or Library technology. The Library makes no guarantee about the security of wired or wireless networks.
23. Library cards are non-transferrable.

DISCIPLINARY PROCESS FOR DEPARTMENT PROGRAMS AND FACILITIES

Users are expected to comply with all applicable Federal, State, and Municipal laws, as well as the Code of Conduct Policy.

Persons who violate the rules and standards contained in the Policy or other posted regulations may receive a verbal warning from Department staff and/or an opportunity to cease the violation. Family members may also be contacted to help alleviate issues, as appropriate. Illegal activity, returning to a facility while under an active suspension, as well as failure to cease a violation or any willful or repeated violations of this Policy or posted regulations, may result in removal from the facility and/or suspension of facility or program privileges. In addition, where authorized by Federal, State or local law, violations may result in arrest.

When a serious act of misconduct by a participant, volunteer, facility user, or group occurs, Department staff shall immediately investigate the allegation. In consultation with the Director of Library and Community Services, or the Director's designee, City staff will impose final disciplinary action by notifying the participant, volunteer, facility user, or group of the action taken and the appeal process.

Department staff will consider the seriousness of the offense and the occurrence of prior offenses or exclusions by the same individual or group within the past six months when determining the disciplinary action to be imposed. Such reasonable restrictions for repeated violations may include:

- 1st incident: Warning.
- 2nd incident: Suspension from the facility or program for three days.
- 3rd incident: Suspension from the facility or program for a week.
- 4th incident: Suspension from the facility or program for a month or longer.

Sanctions will be communicated in writing to the offender(s).

APPEAL PROCESS OF AGGRIEVED PARTY

Any person aggrieved by decisions of Library and Community Services Department staff may appeal by following the appropriate chain of command within the City. The chain of command begins at the supervisory level and proceeds up through the Director of Library and Community Services. For appeal purposes all decisions ruled upon by Department staff will remain in place until such time as possible modifications are made as a result of the next step in the appeal process.

Any person aggrieved by a decision of the Director of Library and Community Services, or the Director's designee, with respect to this Code of Conduct Policy may appeal the decision by filing a written notice of appeal with the City Clerk no later than 10 days after said decision has been communicated to the aggrieved party. Upon receiving an appeal, the City Clerk will forward the appeal to the City Manager's Office, with a copy to the City Attorney's Office, and a response will follow within a timely manner.

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Preserving Access While Regulating Conduct in Public Libraries

BY STEPHEN A. MCEWEN AND NICHOLAS E. HERMSEN



TYLER OLSON/SHUTTERSTOCK.COM

About Legal Notes

This column is provided as general information and not as legal advice. The law is constantly evolving, and attorneys can and do disagree about what the law requires. Local agencies interested in determining how the law applies in a particular situation should consult their local agency attorneys.

Stephen A. McEwen is a partner in the law firm Burke, Williams & Sorensen LLP and serves as city attorney for the City of Buellton, assistant city attorney for Hemet and Atascadero and deputy city attorney for Placentia; he can be reached at SMcEwen@bwslaw.com. Nicholas E. Hermesen is an associate with Burke, Williams & Sorensen LLP and serves as deputy city attorney for Cathedral City; he can be reached at NHermesen@bwslaw.com.

Libraries perform a unique and important function in American society. According to the U.S. Supreme Court, "a public library [is] a place dedicated to quiet, to knowledge and to beauty."¹ Public libraries give people of all ages and backgrounds access to a vast array of topics and literature and ways to learn about current events, explore the internet, perform schoolwork and become better connected with their communities. The public, therefore, has a right to enter and use public libraries under the First Amendment.

At times, however, open library access leads to difficult dilemmas — for example, situations involving patrons who bring in excessive amounts of personal belongings and use the library as a temporary shelter. In such circumstances, other library patrons may complain that this interferes with their right to use and enjoy the library. Preserving the general public's right to use the library for its intended purposes can present difficult legal challenges under the First Amendment and Due Process Clause.

A Library is a Limited Public Forum

Federal court decisions analyzing library access issues agree that “the First Amendment does not merely prohibit the government from enacting laws that censor information, but additionally encompasses the positive right of public access to information and ideas.”ⁱⁱ The First Amendment, therefore, protects “the right to some level of access of a public library.”ⁱⁱⁱ

In applying the First Amendment to library regulations, courts have regularly held that public libraries are limited public forums: “[A]s a limited public forum, the library is obligated only to permit the public to exercise rights that are consistent with the nature of the library and consistent with the government’s intent in designating the library as a public forum. Other activities need not be tolerated.”^{iv} Cities have more leeway to control objectionable conduct in a limited public forum than they do in a traditional public forum.

Adopting Library Rules That Comply With the First Amendment

Because the First Amendment protects library access, library conduct rules are subject to careful scrutiny. The exact level of scrutiny that applies depends on the nature of the rule in question.

In *Kreimer v. Bureau of Police for Town of Morristown*, the Third Circuit Court of Appeals identified two basic standards of review for library regulations. The first standard of review, which is lenient and relatively easy to survive, generally applies to “conduct” rules. These rules do not limit traditional First Amendment activities and therefore “need only be reasonable and not an effort to suppress expression merely because public officials oppose the speaker’s view.”^v Examples of reasonable conduct rules include:

- A requirement that patrons engage in activities associated with public library use, such as reading, studying or using library materials;
- A prohibition against harassment of patrons and staff members;
- A requirement that library patrons wear shoes; and
- A prohibition against playing loud music or talking or singing loudly inside the library.

The second standard of review applies to rules that may limit permitted First Amendment activities, such as those that control appearance or hygiene. These rules require greater scrutiny because they may “require the expulsion of a patron who might otherwise be peacefully engaged in permissible First Amendment activities within the purposes for which the library was opened, such as reading, writing or quiet contemplation.”^{vi} Therefore, these rules “are constitutional only if they are narrowly tailored to serve a significant government interest, and ... leave open ample alternative channels for communication of information.”^{vii}

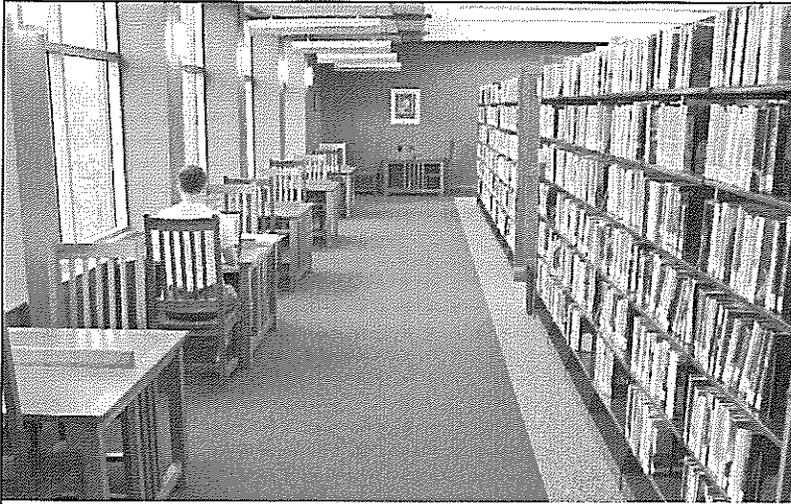
If a library is going to impose a personal hygiene requirement or odor regulation for library users, it should pay close attention to the court’s analysis in *Kreimer and Armstrong v. District of Columbia Public Library*.^{viii}

In *Kreimer*, the court of appeal upheld a library rule that stated, “Patrons whose bodily hygiene is offensive so as to constitute a nuisance to other persons shall be required to leave the building.”^{ix} The court concluded the rule was narrowly tailored to serve the government’s significant interest in ensuring that members of the public can use the library to the maximum extent possible and left open alternative channels for communication. The court further concluded that the hygiene requirement was not vague because it applied only to the extent the hygiene was so bad that it created a nuisance — a sufficiently objective standard for enforcement.

Armstrong dealt with a slightly different rule. In that case, a patron was denied access to a public library under a rule that prohibited patrons with an “objectionable appearance,” defined as “bare footed, bare chested, body odor, filthy clothing, etc.”^x The court concluded that this rule was unconstitutionally vague because, unlike the rule in *Kreimer*, “the ‘objectionable’ nature of these conditions is not accompanied by any cognizable legal definition to clarify exactly what appearances or degree of filth and odor are meant to be prohibited.”^{xi} As a result, the rule lacked an objective standard for enforcement.

The lesson from these cases is that drafters of library rules must identify a specific problem when drafting hygiene, appearance and odor rules. If there is no objective standard to guide enforcement or to differentiate between conditions that truly affect the public’s access to the library and those conditions that are merely annoying, a court is likely to strike down the rule.

Another common dilemma arises when library patrons bring excessive amounts of personal belongings to the library in bags, luggage or wheeled devices such as shopping carts. The *Kreimer* court noted, “The library need not be used as a lounge or a shelter.”^{xii} At the same time, however, a restriction on personal belongings could effectively bar a patron from a library by forcing



Drafters of library rules should make sure the rule focuses on the potential to disrupt the library and includes some objective standard.

him or her to choose between library access or leaving his or her only belongings unattended. Any rule that addresses this issue would likely be scrutinized more closely because it could result in the expulsion of someone who is otherwise quietly using the library.

Drafters of library rules should make sure the rule focuses on the potential to disrupt the library and includes some objective standard. For example, not all wheeled devices will cause a disruption; in fact, some are smaller than an average stroller. A blanket prohibition on push carts or on luggage may not be narrowly tailored enough to survive scrutiny. In addition, a library that bans push carts but not strollers may have a difficult time establishing a link between the rule and the asserted interest of maintaining adequate space and passageways inside the library. The rule, therefore, should target certain specified negative impacts rather than specific property items. Using this approach, a library may be better positioned to avoid claims that it is banning a specific class of people.

Develop Enforcement Procedures That Comply With Due Process

The cases dealing with legal challenges to library rules demonstrate that how the rules are enforced is as important as the rules themselves. Due process requires notice of the violation and an opportunity to be heard.^{xiii} The extent of the due process protection that is required depends on what the particular situation demands.^{xiv}

A simple ejection from the library typically requires a clear explanation of the applicable library rule and an opportunity for the offending patron to address the alleged violation with a member of the library staff.^{xv} A more lengthy banishment from a library may require a more formal appeal process.^{xvi}

Before engaging in any enforcement, it is critically important to document the problem or violation. Library staff should create a detailed record of the unpermitted conduct that describes all incidents with specific details, lists all witnesses and explains why the conduct violates a library rule. In *Kreimer*, the court relied heavily on an extensive factual record, including the library's written log of incidents involving Kreimer's disruptive behavior and foul odor. In *Armstrong*, on the other hand, the library could not even recall the situation in which it banned Armstrong from entering, which put the library at a distinct disadvantage.

As *Armstrong* instructs, it is also important to document how notice was provided to the offending patron, and that he or she was provided an opportunity to be heard on the matter. In *Armstrong*, there was no evidence that Armstrong "was ever told either that an appearance regulation existed or exactly which provision of such a regulation he had violated."^{xvii} At most, he was told that he needed to "clean up." This was insufficient notice.

Clarity Is Crucial

When carefully drafted and enforced, library conduct rules can withstand legal challenges and help ensure that libraries remain accessible for the public's use and enjoyment. In addressing issues related to disruptive behavior, it is important to identify and document the problems that need to be addressed, develop objective standards of conduct to the greatest extent possible, and ensure that offenders receive adequate notice and an opportunity to be heard.

Footnotes

ⁱ *Brown v. State of Louisiana* (1966) 383 U.S. 131, 142.

- ii *Kreimer v. Bureau of Police for Town of Morristown* (3rd Cir. 1992) 958 F.2d 1242, 1255.
 - iii *Ibid.*
 - iv *Id.* at p. 1262.
 - v *Id.* [internal citations omitted.]
 - vi *Id.* at p. 1263.
 - vii *Id.* at p. 1262.
 - viii (D. D.C. 2001) 154 F.Supp.2d 67.
 - ix *Kreimer, supra*, 958 F.2d at p. 1264.
 - x *Armstrong, supra*, 154 F.Supp.2d at p. 70, fn. 2.
 - xi *Id.* at p. 78.
 - xii *Kreimer, supra*, 958 F.2d at p. 1262.
 - xiii *Goss v. Lopez* (1975) 419 U.S. 565, 581.
 - xiv *Mathews v. Eldridge* (1976) 424 U.S. 319, 334.
 - xv See *Neinast v. Bd. of Trustees of the Columbus Metropolitan Library* (6th Cir. 2003).
 - xvi See *Spreadbury v. Bitterroot Public Library* (D. Mon. 2012) 862 F.Supp.2d 1054, 1057.
 - xvii *Armstrong, supra*, 154 F.Supp.2d at p. 81.
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LIBRARY BOARD OF TRUSTEES

Agenda Item No. 3
Date: November 8, 2016

TO: Library Board of Trustees
FROM: Loretta McKinney, Director of Library and Community Services
SUBJECT: Grape Day Park New Library Taskforce Update

Recommendation: Receive information and file.

Background:

On March 23, 2016, City Council directed staff to study the feasibility of a new Library within Grape Day Park, at the corner of Escondido Boulevard and Woodward Avenue. Staff presented those findings at the October 19, 2016 City Council meeting. A review and update on the Grape Day Park New Library Task Force's next steps will be provided at this meeting.

Respectfully Submitted,

A handwritten signature in blue ink that reads "Loretta McKinney".

Loretta McKinney
Director of Library and Community Services