

## **PRIVATE OUTDOOR FEE-BASED ACTIVITIES (POFA) IN DENVER PUBLIC PARKS**

Below are the main points made during statements before the Denver Parks and Recreation Advisory Board on May 14, 2015, regarding expanding Private Outdoor Fee-Based Activity (POFA) permits to Cheesman Park.

### **WHAT IS POFA?**

#### Statement by Paula Kauffman:

POFA was implemented by Denver Parks and Recreation (DPR) in 2014 for the purpose of legalizing conditions under which private, for-fee, commercial operators can use tax-payer financed public spaces (city parks) to conduct certain recreational activities for private gain.

The POFA policy lists 20 examples of allowed activities, from guided aerobics to guided angling.

POFA permits are categorized based on the number of fee-paying participants: small groups (1 to 5) or large groups (6 to a maximum of 25). For large groups, a certain number of permits is issued for 27 parks designated by DPR. Last year, DPR made available a total of 114 large-group permits, split among the designated parks, but only 14 of the 114 permits were issued in 2014.

Regarding permits for small-group activities of 1 to 5 participants, the DPR policy is silent on the maximum number available. It is assumed, therefore, that permits for small-group activities are available in unlimited numbers for all parks throughout the city; these are in addition to the 114 large-group permits.

Permits are valid for six months and cost between \$100 and \$300.

POFA is only one of many, many permitted programs authorized in Denver's parks. Section 2.1 of the POFA policy lists the following exclusions to POFA:

“Any activities, whether or not commercial in nature, which are authorized and conducted under a concession license, cooperative agreement, shared facilities agreement with Denver Public Schools, user agreement, lease, temporary vending permit, athletic permit, event permit, event facility permit, race/walk permit, recreation facility permit, film permit or as part of any City-sponsored or City-conducted program or activity.”

The POFA policy does not affect team sports or other community activities in any way.

### **WHY IS POFA NEEDED?**

#### Statement by Alida Hilton:

POFA is justified by DPR in part by the idea that this policy will help park administrators balance differing requests for recreational opportunities by the public. On the face of it, this makes

sense. Some people want a class, others want to walk alone. Citizens, with the help of this permitting process, the theory goes, get access to both.

However, once you think about this, you see the difficulty: There is simply never going to be a consensus in the community as to what constitutes appropriate recreation in a park.

The idea of “balance” is not enough of an anchor to produce a coherent park policy. While trying to sort out competing requests will always be difficult, it would be easier and more broadly beneficial, if decisions were made in relation to **a fundamental purpose of parks**.

This purpose is to provide open green space, vegetation, habitat for wildlife that live in parks, and beauty. This is a traditional purpose of parks and, as it turns out, one that we know, from the Trust for Public Land, that provides multiple economic and health benefits for a community.

Providing POFA permits for park spaces not designed for such use poses a threat to that space; creates a culture of use of parks by these relatively large groups; encourages similar use by non-permitted groups; and limits tax-paying citizens access to parkland. Moreover, there are places in the community in which most POFA activities can take place other than parks such as gyms and ballfields.

We are told, however, that times have changed. Citizens of Denver want something else—goods and services in parks that are flashier, group based, and commercially-run.

DO THEY REALLY?

I see no evidence to support this claim. People want open green space. **This is the new luxury, and it will only become more precious over time, as the city grows.** Preserving the foundational purpose of parks is the greatest legacy the current PRAB Board and park administration could leave Denver.

## **WHY PRIVATE FEE-BASED ACTIVITIES ARE NOT APPROPRIATE AT CHEESMAN PARK**

### Statement by Don Sutton:

Denver’s Cheesman Park is an 80-acre green oasis located in the heart of Capitol Hill, one of Denver’s most densely populated neighborhoods. The majority of the park is in the 80218 zip code which is the second highest-density zip code in Denver, with 11,206 people per square mile. Capitol Hill is also awash with new development. A high level of density and population growth is placing increasing demands on Cheesman Park, and it is needed as an open and free green space for the neighborhoods that surround it.

Cheesman is considered one of the country’s best-designed public spaces and is listed on the National Register of Historic Places. Recognizing the value of the park for urban residents, DPR’s own *Cheesman Park Master Plan* states [page 57], “Cheesman Park is a **passive** park with mountain views, sunset watching, gardens, concerts, picnicking, running and walking.” POFA

activities are incompatible with the Department's own vision for this park. [NOTE: Click here for other references to Cheesman being a passive park.]

Cheesman is also unique amongst Denver parks, as there are no perimeter streets on three sides of the park. Residences directly border the park on its west, north, and east sides. Cheesman's south side is defined by 8th Avenue. Due to its residential location and small size, parking in Cheesman is a significant problem. On weekday evenings and weekends, all 168 designated parking spaces are filled, forcing neighborhood streets to take the overflow thereby increasing congestion in these areas.

Allowing POFA activities in Cheesman would further stress the park's resources by adding up to 1,200 additional users a day, compounding existing traffic and congestion problems, while intruding on the rights of citizens to enjoy the park as it was intended.

Further, fees paid by POFA permit holders will not cover the cost of monitoring POFA activities or repairing damage to the park caused by group events. DPR does not have sufficient rangers to monitor park activities in general or POFA activities in particular.

Let's not erode societal well-being by closing off portions of our parks for use by some for the enrichment of the few. "As cities explode exponentially or implode dramatically, the quality of the public realm [such as public parks] will become increasingly significant to social well-being in the 21st century." (Ricky Burdett, London School of Economics).

## **WHAT MAY BE THE UNINTENDED CONSEQUENCES OF POFA?**

Statement by Kathleen Rust:

**POFA activities are permitted in parks 16 hours per day, 7 days a week, 5 a.m. to 9 p.m.** Permit holders may be individuals, an organization, or a non-profit that may charge for and conduct activity-based classes for up to 25 participants. One permit can be used repeatedly for the same class seven days a week. DPR proposes to issue three POFA permits every six months in Cheesman Park — an on-going potential of 75 participants driving to the park at any one time and hundreds rotating in and out every day during the course of the week.

**POFA further commercializes the parks.** DPR believes that if they authorize permits to private business owners to use public park spaces as their gym or fitness studios, they are controlling the businesses. We feel this is misguided. Allowing it to occur does not control it; rather, it encourages it. We have private business owners using public parks for their own profit.

### **An Example of How POFA Might Work Once These Activities "Catch On":**

Francis Fitness wants to conduct zumba classes but does not have a place of business.

She sees a beautiful, green, public park—a lovely setting for a business.

Francis obtains a six-month POFA permit for \$200 and pays a \$25 processing fee.

She has 25 participants for each of her two classes occurring five days a week. But Francis doesn't need to teach all of these classes; she can hire others to teach the classes. So if you do the math:

- Francis charges \$10 each for 25 participants = \$250 per class.
- 2 classes per day @ \$250 per class = \$500 per day.
- \$500 per day x 5 days a week = \$2,500 a week to Francis.
- \$2,500 per week x 4 weeks = \$10,000 monthly income.

**The results for the six-month permit:**

For Francis: Two classes a day taught 5 days a week for 6 months = \$60,000 income.

For DPR: Revenue of \$225 for the permit and processing fee. Last year POFA permitting fees for all POFA permits in 27 parks totaled \$3,000. Does \$3,000 cover park maintenance and enforcement costs for this program?

For the Park and the Neighborhood: More people, more cars, more congestion, more parking issues, and further commercialization of our public parks.

**The obvious now emerges:** POFA creates a huge incentive to conduct private businesses in parks; and over time, increasing numbers of people will begin to do so—encouraged by the POFA policy.

**Our parks must not be for sale.** Parks are open public spaces paid for by tax dollars for public enjoyment. Parks provide a green oasis for calm reflection and a sense of nature—a necessity in urban life. This is not an old-fashioned idea. Now, as in the past, public parks must be preserved and protected. The Trust for Public Lands says, “Parks are a gift you give yourself.” We must not let these valuable assets slip away. Say “NO” to POFA and its unintended consequences!

**SUMMARY**

**Statement by Kathleen Wells:**

Building on comments made by other speakers, I oppose POFA, and I believe it will be eventually rescinded as a Denver park policy, despite what other cities around the country may do because, at heart, we are a town of people who love green, open space. While I wait, though, I hope the Parks and Recreation Advisory Board recommends that Cheesman Park is not listed as a POFA park.

These conclusions are based on the following reasons:

1. There is no demonstrated need for POFA, as the 2014 annual report on the program so aptly shows;

2. The fees collected for POFA permits will not cover costs to enforce effectively the policy or to repair the damage large groups will cause to parkland;
3. POFA will increase the presence of large groups using parkland, due to the strong economic incentive to do so that the policy will create, whether they have permits or not, in areas where such groups pose the greatest threat to parkland;
4. There is never going to be a consensus in the community as to what constitutes appropriate recreation in a park, therefore, decisions about recreational use must be made in relation to a fundamental purpose of parks- to provide open green space;
5. POFA is at odds with this fundamental purpose of parks, and we believe Denver park administrators will eventually come to reaffirm this;
6. POFA is particularly inappropriate for Cheesman Park due to its size, historic character, location, the density of the neighborhoods which border the park, and existing neighborhood problems exacerbated by increasing population growth— traffic, parking, congestion, and trash; and, finally,
7. The Cheesman Park Advocacy Group and Friends and Neighbors for Cheesman Park, a 300-member group, both oppose use of Cheesman in this manner.

One way in which we lose landscape is through the loss of understanding of what it means. Through POFA, we begin to lose a collective understanding of why we have parks that are free and open to the public. It pushes us toward a world in which a park is simply land on which things happen rather than one in which land is treasured for itself.