



BOARD/COMMISSION RECOMMENDATION

Parks & Recreation Board

Recommendation Number 20230227-5: Recommend further Public Engagement surrounding the DRAFT recommendation for a Unified Non-Profit Role in Operation and Management of Zilker Park

WHEREAS, Zilker Metropolitan Park is a significant public resource for the citizens of Austin, providing critical land for the preservation of the area's natural environment, recreational and exercise space for public enjoyment, protection of the pristine waters of Barton Springs, as well as habitat for the region's important flora and fauna;

WHEREAS, Zilker Park is currently undergoing a planning process known as the Zilker Park Vision Plan, for which a consultant was hired to engage with the public to discern the community members' desires for the future of Zilker Park and to create a draft Zilker Park Vision Plan; and

WHEREAS, the public engagement process for the Zilker Park Vision plan was seriously flawed and not representative of Austin's overall resident park goers, and just two examples of this are (a) information from participants at pop ups hosted across the city was not recorded and participants were simply told to answer the online surveys, and (b) the online surveys were confusing and heavily biased "push polls" designed to encourage support for massive building projects, including the leading questions on the final survey asking survey takers to identify which projects within the plan they were most excited about, most of the choices were construction projects, and there was no option to answer "none of the above," and

WHEREAS, no one or almost no one, during the public engagement process, asked for or supported the further privatization of Zilker Park management and operations and the vast majority of public input on this was opposed to continued and further privatization of park operations; and

WHEREAS, no community engagement surveyed the public desire to create an umbrella organization, a single-point-of-contact non-profit group to take over Zilker Park decision-making and management, ceding control that should belong to the publicly funded and accountable Parks and Recreation Department; and

WHEREAS, the Draft Zilker Park Vision Plan was completed in November 2022, was open for public comment until January 8, 2023, and is planned to be presented to Boards and Commissions and the City Council; and

WHEREAS, the Parks and Recreation Board will be making a full review of the plan and recommendation to City Council in the future but only after it is reviewed by other Boards and Commissions; and

WHEREAS, the “Operation and Management” section of the Draft Zilker Park Vision Plan recommends “a Zilker unified (umbrella) non-profit, that can serve as a single point of contact for the Austin Parks and Recreation Department, serving as a go-between for the many active organizations and interested parties”... “in a formalized partnership with the city...”; and

WHEREAS, the “Operation and Management” section of the Draft Zilker Park Vision Plan recommends the Zilker unified (umbrella) non-profit be tasked with advocacy for the Zilker Park Vision Plan, to engage in private fundraising for capital improvements, and to work with a coalition known as Austin Outdoors to campaign for public funds and advocate for private funding, capital improvements, programming, operations, and maintenance, as well as many other potential roles; and

WHEREAS, the “Operation and Management” section of the Draft Zilker Park Vision Plan recommends the Zilker unified (umbrella) non-profit be given a role in concession management within Zilker Park and further recommends changes in the revenue sharing and fee models for concessions contracts within Zilker Park; and

WHEREAS, the Austin Parks and Recreation Department, in overseeing park operations, maintenance, and programming, follows specific guidelines to keep taxpayer-funded spending accountable and transparent to the public;

WHEREAS, despite good intentions, non-profit organizations are not governmental entities subject to open meetings, public information, bidding, contracting, and other laws intended to allow for transparency and accountability to residents in expenditure of public funds and development of public assets; and

WHEREAS, the recommendation for a unified non-profit partner and recommendations for the partner’s role, the change to concessions structures, and other operations and management

recommendations would be a significant change to the management of Zilker Park and unprecedented for a municipal park in the City of Austin; and

WHEREAS, there is no description of the public engagement undertaken during the engagement portion of the Vision Plan development regarding the role of a Zilker unified (umbrella) non-profit to oversee programming, concessions, advocacy, and other roles described, nor is there any indication of public support or lack thereof for a Zilker unified (umbrella) non-profit;

NOW, THEREFORE, BE IT RECOMMENDED that the Parks & Recreation Board:

- 1) Because of the above-referenced concerns about the public engagement process, cannot not support the inclusion of the language in the Draft Zilker Park Vision Plan referring to the Zilker unified (umbrella non-profit); and
- 2) Recommends that this resolution be presented to all boards and commissions and City Council along with the Draft Zilker Park Vision Plan, until there is a public process of community engagement to discern the type of entity, if any, the public feels is appropriate to have a role in the operation, management, concessions management, advocacy, and fundraising for Zilker Park.

Date of Approval: February 27, 2023

Record of the vote: The motion to recommend that the Parks & Recreation Board: 1) Because of the above-referenced concerns about the public engagement process, cannot not support the inclusion of the language in the Draft Zilker Park Vision Plan referring to the Zilker unified (umbrella non-profit); and 2) Recommends that this resolution be presented to all boards and commissions and City Council along with the Draft Zilker Park Vision Plan, until there is a public process of community engagement to discern the type of entity, if any, the public feels is appropriate to have a role in the operation, management, concessions management, advocacy, and fundraising for Zilker Park was approved on Chair Cottam Sajbel's motion, Vice Chair Faust's second on a 6-2 vote with two vacancies. Those Board Members voting aye were: Chair Cottam Sajbel, Vice Chair Faust, Board Members Moore, Hugman, Barnard Taylor. Those Board Members voting nay were: Board Members Villalobos and Flowers. Board Member Rinaldi absent

Attest: Tim Dombek

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MEMORANDUM

TO: Parks and Recreation Board

FROM: Kimberly A. McNeeley, M. Ed., CPRP, Director
Austin Parks and Recreation Department 

DATE: March 21, 2023

SUBJECT: **Staff Response to Draft Zilker Park Vision Plan Umbrella Nonprofit (Recommendation No. 20230227-5)**

This memorandum is in response to the Parks and Recreation Board [Recommendation No. 20230227-5](#). The Parks and Recreation Department has received the recommendation outlined below.

The Parks and Recreation Board cannot support the inclusion of the language in the Draft Zilker Park Vision Plan referring to the Zilker Unified (umbrella) non-profit.

[The Parks and Recreation Board] [r]ecommends that this [recommendation] be presented to all boards and commissions and City Council along with the Draft Zilker Park Vision Plan, until there is a public process of community engagement to discern the type of entity, if any, the public feels is appropriate to have a role in the operation, management, concessions management, advocacy, and fundraising for Zilker Park.

The Parks and Recreation Board (Parks Board) recommendation to remove language associated with considering a partnership with a unified non-profit group in support of Zilker Park conflicts with previous City guidance. During public comment portion of the Parks Board February meeting, much of the expressed concern was directly connected to the “handover” or ceding of control of Zilker Metropolitan Park to a for-profit entity. To be clear, this has never been considered and is not part of the draft Vision Plan. In fact, Zilker, like all parkland, benefits from protections in place in local city ordinance and the Texas Parks and Wildlife Code that prohibits the sale, conveyance, leasing, or gifting of a park to a private entity without a majority vote of the public. After careful consideration of the recommendation and public comment, the Department has developed its response to the recommendation as outlined below.

Department Response

The Vision Plan recommendation of the umbrella nonprofit will remain in the draft Zilker Park Vision Plan. The umbrella nonprofit recommendation is a response to citywide guidance through City Council resolution and City Council-approved plans and direction:

- [Austin City Council Resolution 20200312-041](#): “The City Council expresses support for the concept of parkland agreements between nonprofit organizations and PARD if the agreements further the mission and vision of the department with regard to non-enterprise fund public parks and trails in an effective, efficient, and inclusive manner.”
- [Our Parks, Our Future: PARD Long Range Plan 2020-2030](#): The Long Range Plan went through significant community engagement before adoption by City Council. In Chapter 4.E. “Optimize & Improve Efficiency of Operations,” the Long Range Plan identified partnerships as a sustainability strategy for developing, improving, maintaining and programming spaces (pp. 22, 125, 130, 179).
- [Strategic Direction 2023](#): SD23’s “Economic Opportunity & Affordability” outcome identifies “leveraging public-private partnerships” as a strategy for strengthening the small-business sector, which includes concessions at Zilker (p. 9). SD23’s “Health & Environment” strategy 8 identifies “leverage[ing] innovative financing models and partnerships to support, maintain, and expand parks, open spaces, recreational facilities, and our urban trail network” (p. 22).

When the draft Vision Plan goes before Council, the Parks Board recommendation will accompany it. At that time, Council may provide direction.

The second recommendation also identifies a need for a “public process of community engagement to discern” details of the organization. Consistent with the implementation of all park vision plans, additional community engagement typically takes place in the design or implementation phase. The Zilker Vision Plan will include clarification that a community engagement process should take place to receive input as to the roles and responsibilities of a future umbrella nonprofit and subsequent future agreement. Additionally, for awareness, governance by the Texas Business Organizations Code with additional IRS considerations guides the structure and formation of a nonprofit organization. The Vision Plan recommends a nonprofit organization due to the requirement of public benefit.

Before an agreement is entered into with any such entity by the City of Austin, the standard established public process would be in place, which will include Parks and Recreation Board recommendations and requires City Council approval.

Finally, as mentioned in the draft Vision Plan, the proposed umbrella nonprofit is not envisioned to have a role in the operations and management of the park.

The Parks Board recommendation is now attached to the draft Vision Plan in Appendix A with a notation in the “Organizational Partnership” section of Chapter 5: Implementation. Language has also been added to provide background information on the umbrella organization recommendation and clarify the rationale for its inclusion in the Vision Plan.

Should you have any questions, please contact my office at (512) 974-6717.

cc: Jodi Jay, M.B.A., CPRP, Assistant Director
 Liana Kallivoka, PhD, PE, LEED Fellow, Assistant Director
 Lucas Massie, M.Ed., CPRP, Assistant Director
 Suzanne Piper, DBA, Chief Administrative Officer

