

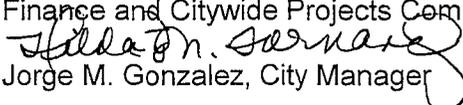


# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)

## COMMITTEE MEMORANDUM

TO: Finance and Citywide Projects Committee Members

FROM:   
Jorge M. Gonzalez, City Manager

DATE: October 29, 2009

SUBJECT: Discussion – Proposed fees for Artist Vendors/Street Performers

### BACKGROUND

At the second budget hearing, the Commission requested that we review the proposed fee increase for the Artist Vendor/Street Performer program to ensure that the City was recovering all actual costs involved in supporting this effort. There are two departments primarily responsible for the portion of the Artist Vendor/Street Performer program relating to the lottery to assign permit locations in certain areas of the City. These departments are the Finance Department and the Code Compliance Division.

During the discussion, concerns were expressed regarding the estimated cost of an increase to the quarterly fee for artist vending/street performances based on the calculations developed by Finance and Code Compliance staff of actual time and costs associated with currently managing this program. In reviewing these additional processes, it is apparent that the bulk of the time, and as a result most of the cost, is associated with processes that have been designed in an effort to afford all applicants the opportunity to secure a spot; these processes are incorporated into either the ordinance and/or the administrative guidelines for the program. Attachment A reflects the current costs for each department, broken down by activity. These additional processes include, among other things:

- 1) A "supplemental lottery" process for vendors/performers whose name is selected the day of the lottery but are not present the day of the lottery to select their spot (Code)
- 2) The process to manage an "Alternate List," that includes offering alternates a permit spot in the event that the supplemental lottery results in available permit locations (Code)
- 3) Reissuing of permits to alternates during the quarter to replace vendors/performers that have surrendered their permit locations or have had their permits revoked due to violations. This involves contacting the alternate(s) (Code)
- 4) Monitoring attendance at all permit locations daily (two times a day) to ensure attendance, since absences that reach a certain threshold (as established in the ordinance) will result in revocation; if there is a revocation, then an alternate(s) must be contacted to be offered the spot, permit must be issued, etc. (Code)
- 5) Responding to daily calls, questions, etc. regarding the lottery, attendance, permitted items, etc. (Code and Finance)

In reviewing these additional processes, it is apparent that the bulk of the time, and as a result most of the cost, is associated with this additional work. The intention has been to ensure that as many of the vendors that apply for a permit can be accommodated, if possible. For example, the program allows that when twice as many permit applications are received than permit locations are available per ordinance, we can issue two permits for one

location (a three-day permit for Thursday to Saturday and a four-day permit for Sunday to Wednesday). While the number of permit spaces was expanded during the last ordinance amendment to include Collins, Washington, new spaces on Lincoln Road and Ocean Drive, and the Beachwalk, we continue to receive 75-80% more applications than spaces; however, we have yet to reach the 100% mark (96 applications) that would prompt us to require that all locations be issued two permits. Notwithstanding, we offered applicants the opportunity to voluntarily chose a three or four day permit for a location as a mechanism to make more permits available. Certain vendors that only want to sell for a few days have taken advantage of this option, providing for additional permits. That said, the number of persons not issued a permit ranges from 25-30 a quarter. As a result, those that are not issued a permit closely monitor the permit holders and advise the Code Office of non-use, sale of unapproved items, etc.

### **POTENTIAL OPTIONS**

In reviewing the current processes and associated costs, it is clear that the manner to reduce the time expended in supporting the program is to eliminate some of these processes. However, in discussions with staff, as well as the City Attorney's office, it is recommended that this be accomplished in concert with adjustments to the current program. Specifically, the following is recommended:

#### **Increase the number of available permits, thus providing an opportunity for a greater number of vendors/performers to obtain a permit.**

This option can be accomplished with an amendment to the ordinance, as follows:

- Add new locations: Two options for new locations have been discussed by staff. One option includes locations on the 200 and 300 block of Lincoln Road. This would not only increase the number of available permit locations, but would address an unintended consequence from the current ordinance that has allowed certified vendors to set up in a certain area of these two blocks that fall outside of the regulated areas in the ordinance. The end result has been a concentration of vendors in one area, prompting concerns about access and pedestrian flow, and resulting in complaints from merchants as a result. A review of the area, including the northern sidewalk, has indicated that as many as thirteen (13) permit locations could be accommodated in these two blocks with sufficient separation and de-concentration. We are not recommending the addition of that many locations at this time; we are bringing our final recommendation to the Neighborhoods Committee for discussion. In addition, we have reviewed the newly completed beachwalk entrances at 21<sup>st</sup> and 22<sup>nd</sup> street and believe that a maximum of two locations at each entrance to the beachwalk could be accommodated with minimal impact.
- Split available permits: If permit locations in premium locations such as Lincoln Road, Ocean Drive (from 5<sup>th</sup> to 14<sup>th</sup>) and perhaps the Lincoln Road beachwalk were identified as locations where only three-day and four-day permits are available, this would also increase the number of permits available via the lottery.

We believe that one or both of these measures will reduce the need to manage an alternate list, as more permits would be issued.

#### **Change the process to deal with absences on the day of the lottery:**

As previously explained, a supplemental lottery is held for any vendors/performers not present the day of the lottery. We would recommend requiring vendors/performers to be present the day of the lottery or, in the alternative: a) allow for the use of proxies to select in their absence when their name is selected; or b) randomly assign locations to absent vendors at the end of the lottery.

#### **Eliminate the alternate list; do not make subsequent assignments after the day of the lottery as a result of surrendered permits or revocations:**

If we are able to increase the number of permits issued, it is possible that only a very limited

number of persons would remain without a permit location for a quarter. They can apply for a permit in the subsequent quarter.

**Eliminate the daily attendance monitoring:**

The attendance monitoring has been necessary to identify underutilization of permit locations to be able to re-assign these locations to applicants on the alternate list – especially as the alternate list has typically been rather long. Again, if there are an increased number of permits available, then once a permit location is assigned via the lottery process, whether or not the vendor or performer attends would be an issue for the vendor/performer. The only impacted vendors/performers would be those that do not get an assigned permit for that quarter. Again, if additional permits are available as previously described, the number of affected vendors/artists without a permit location would be substantially smaller. This element of the permit process has been the most time consuming and costly (2190 hours, \$137,444).

**IMPACT OF IMPLEMENTATION OF OPTIONS ON FEE**

The attached matrix (Attachment B) reflects the reduced costs associated with the program if these options above were adopted and the ordinance and/or administrative guidelines were amended accordingly. As noted, the costs associated with the lottery and permit processing would drop from \$783 a quarter to \$192 a quarter. As also noted, in both Attachment A and Attachment B we have broken down the costs as they relate to activities necessary to apply for a permit, and those activities necessary to process permits for persons selected via the lottery. As some of the costs are unique only to persons selected for a permit, we would recommend that all applicants for a permit pay the “Application Fee,” and only those applicants selected and issued a permit pay the additional costs (“Permit Processing Fee”). As indicated, the total new amount for an applicant that is issued a permit would be \$192, increased from the current \$15, should the proposed options be implemented. If not changes were implemented, the costs associated with applying would be more than \$150, with those applicants selected having to pay an additional \$631 to process their permits.

*NOTE: The cost for artist vendors/street performers is higher than the non-profit vendors due to the volume of applicants and number of permits issued in this program, as compared to the non profit vendor program (only five permits issued).*

**CONCLUSION**

The current Artist Vendor/Street Performer ordinance allows fees to be set administratively. The recent review of the costs associated with managing the applications and processing of permits for artist vendors/street performers indicates that current processes create costs that are high and would be an issue for most vendors/performers to pay to cover. The proposed changes to the process would streamline the program, and provide for an application and permit processing fee that is sufficient to cover our costs, while representing a reasonable amount for potential applicants – thus providing opportunities for artist vendors/street performers to engage in this activity in our community.

It is recommended that the proposed amendment to the ordinance relating to additional locations be discussed at the next Neighborhoods Committee meeting. Direction on the proposed changes to the process is recommended at this time. However, we would strongly recommend that these changes be initiated concurrent with the addition of locations.

**CURRENT PROCESS/COSTS**

<b>Current Artist Vendor / Street Performer Processes by Finance Department</b>			
<b>Activity</b>	<b>Quarterly Hours</b>	<b>Annual Hours</b>	<b>Annual Cost (blended rate of \$90.00)</b>
Process, review and input each of the 300 Street Performer and Artist Vendor lottery applications annually. This time includes customer and staff interactions, as well as, the review for compliance and electronic filing of the application.	25	100	9,000.00
Preparing for lottery (two staff members spend sixteen hours each, every quarter preparing for the Street Performer and Artist Vendor lottery)	32	128	11,520.00
Staff lottery (two staff members x four hours each quarter).	8	32	2,880.00
Responding to phone and email inquiries regarding the lottery, updating lottery information on the City web page	8	32	2,880.00
	<b>SUBTOTAL</b>	<b>292</b>	<b>\$26,280.00</b>

<b>Current Artist Vendor / Street Performer Processes by Code Compliance Division</b>			
<b>Activity</b>	<b>Quarterly Hours</b>	<b>Annual Hours</b>	<b>Annual Cost (blended rate of \$62.76)</b>
ID Artist Vendor/Street Performer locations, create/update maps	4	16	1,004.16
Staffing Lottery (4 employees X 4 hours each quarter)	16	64	4,016.64
Staffing Supplemental Lottery (3 employees X 1 hour each quarter)	3	12	753.12
Creating permits, issuing permits, managing alternate list, reissuing permits, maintaining attendance logs, revoking permits for attendance and reissuing permits per order on list, tracking violations, responding to inquiries from participants. (Average 4 hours per day X 5 days per week)	260	1040	65,270.40
Daily Artist Counts (2 times each day, 3 hours each count = 6 hours per day X 365 days)		2190	137,444.40
	<b>SUBTOTAL</b>	<b>3322</b>	<b>\$208,488.72</b>
	<b>TOTAL</b>	<b>3614</b>	<b>\$234,768.72</b>

<b>COST PER QUARTER</b>	<b>\$782.56</b>
<b>COST TO APPLY FOR LOTTERY (\$78.00 + 73.64)</b>	<b>\$151.64</b>
<b>COST TO PROCESS PERMIT (\$9.60 + \$621.32)</b>	<b>\$630.92</b>

**PROPOSED PROCESS/COSTS**

<b>Proposed Artist Vendor / Street Performer Processes by Finance Department</b>			
<b>Activity</b>	<b>Quarterly Hours</b>	<b>Annual Hours</b>	<b>Annual Cost (blended rate of \$90.00)</b>
Process, review and input each of the 300 Street Performer and Artist Vendor lottery applications annually. This time includes customer and staff interactions, as well as, the review for compliance and electronic filing of the application.	25	100	9,000.00
Staff lottery (one staff members x four hours each quarter).	4	16	1,440.00
update lottery information on the City web page	1	4	360.00
	<b>SUBTOTAL</b>	<b>120</b>	<b>\$10,800.00</b>

<b>Proposed Artist Vendor / Street Performer Processes by Code Compliance Division</b>			
<b>Activity</b>	<b>Quarterly Hours</b>	<b>Annual Hours</b>	<b>Annual Cost (blended rate of \$62.76)</b>
ID Artist Vendor/Street Performer locations, create/update maps	4	16	1,004.16
Staffing lottery (4 employees X 4 hours each quarter)	16	64	4,016.64
Creating permits (15 min each permit, assuming the average of 100 permits each quarter)	25	100	6,276.00
Issuing permits 30 min each permit, (assuming 100 permits, includes reviewing location, requirements, ordinance, answering questions)	50	200	12,552.00
Addressing inquiries and complaints (1 hour per day X 5 days per week)	65	260	16,317.60
Tracking violations (2 hours per week)	26	104	6,527.04
	<b>SUBTOTAL</b>	<b>744</b>	<b>\$46,693.44</b>

	<b>TOTAL</b>	<b>864</b>	<b>\$57,493.44</b>
--	--------------	------------	--------------------

<b>COST PER QUARTER</b>	<b>\$192.00</b>
<b>COST TO APPLY FOR LOTTERY (36.00 + 71.13 )</b>	<b>\$107.13</b>
<b>COST TO PROCESS PERMIT (\$0 + 84.50)</b>	<b>\$ 84.50</b>