


Office of the City Manager

July 25, 2013

To: Honorable Mayor and City Council members

From: Christine Daniel, City Manager 

Subject: Response to Item 21, July 2, 2013 Agenda, concerning Food Vendors

This responds to Item Number 21 on the July 2, 2013 City Council Agenda concerning the food vendors on Bancroft Avenue. In addition to the information provided in the attached memorandum, please note that one of the vendors was assessed penalties for failing to timely renew his business license this year. However, due to the uncertainty regarding an alternate location for the vendor to operate, the City will forgo those penalties to enable the vendor to reestablish his operation at the new location. Please let us know if you have additional questions regarding this matter.

Attachment: Communications with Telegraph Area Food Vendors

cc: William Rogers, Deputy City Manager
Mark Numainville, City Clerk
Ann-Marie Hogan, City Auditor
Pam Embry, Public Information Officer



Office of the City Manager

July 24, 2013

To: Honorable Mayor and Members of the City Council

From: Christine Daniel, City Manager

Submitted by:  Michael Caplan, Economic Development Manager
Bob Hicks, Director of Finance

Subject: Communications with Telegraph Area Food Vendors

Per Council's request of July 2, 2013, staff has reviewed the communications between City staff and the three street food vendors whose permits were not renewed at their former Telegraph and Bancroft locations in December 2012, but rather were offered a new location at College and Bancroft.

Background

Staff met with the vendors after their permits expired and worked creatively to find them a new location

With the impending start of construction on the University's Lower Sproul Project, the public-right-of-way on the north side of Bancroft Way at Telegraph at the entrance to the UC Berkeley Campus was determined to be needed for construction-related activities. Accordingly, on December 13, 2012 staff provided a letter to the three food vendors notifying them that the City was not renewing their licenses to operate at that location. Staff acknowledges that the vendors were given very short notice of non-renewal prior to the expiration of their permits.

Because of the short notice, and also due to the fact that they wished to continue operations during construction, staff met with the vendors and UC staff to consider possible alternate locations. Initially it appeared that no suitable alternative locations were available since the City-sidewalk on the north side of Bancroft Way was too narrow and the University chose not to locate vending on its property. Nevertheless, after further discussions with the vendors, City staff, UC staff and AC Transit staff worked creatively to establish a site in a red zone near the corner of College and Bancroft. The new location was intended to allow continued vending operations for the remainder of calendar year 2013, as well as two additional one year renewals, which would be the equivalent of the three- year period the vendors might have sustained in their old location had their original permits been renewed each year (those permits were valid for a one year period and renewable for up to three additional years).

Communications between City staff and the vendors

The food vendors have indicated they believed that they would be allowed to return to the Telegraph and Bancroft location. However, City staff did not, and could not, assure them that they could return to that location when construction is finished. The reconstruction of the ASUC complex and changes to the heavily-used AC Transit stop on Bancroft will cause major changes to pedestrian circulation at Bancroft and Telegraph. At minimum, staff would need to evaluate future conditions, post-construction, before any decision could be made to allow the food carts to be established at that location.

The staff/vendor communication history since December 2012 was essentially as follows:

1. Finance staff informed the three food vendors on December 13, 2012 that the City was not renewing their food vendor licenses in their Bancroft and Telegraph location for calendar year 2013 because of pending construction.
2. On January 18, 2013, staff from Finance, Transportation Engineering and OED met with the vendors to scout for sites on the north side of Bancroft Way. None of the staff people present at this meeting assured the vendors of their ability to return to their former location.
3. There were several subsequent meetings by staff to assess the technical feasibility of alternative vendor spaces that were not attended by vendors themselves.
4. After the relocation site at Bancroft at College was identified, OED staff informed the vendors about it by email on March 20th, 2013 and provided a copy of conditions that would be attached to the permits for this location in order to mitigate impacts on adjacent uses. (See Attachment A.) Two responses by Jack Huynh of Kettle Corn Star asked for the right to return to their original location after the completion of construction. OED staff responded on April 8th, 2013 by email and described the reason for the permit conditions and, the process and stakeholder input that had gone into establishing them. OED further tried to reassure Mr. Huynh about the new site, which was very close to a former vendor site that operated successfully for years. Again, staff gave no assurances that the vendors would be able to return to their former site.
5. Most recently, Finance staff had several interactions with the vendors at the counter when they came in to apply for and learn about their new permit locations and required conditions. Staff does not believe there were any communications with the vendors where assurances of return to the previous location were given.

City food vending permits are always location-specific and time-limited

Vending permits are always location-specific and time-limited. The permits that the vendors once had at Bancroft and Telegraph expired and were not renewed because of pending construction. The new permits that have been offered for Bancroft and College are for that location only and are, by definition, not transferable.

Next Steps

If, at the end of construction of the Lower Sproul project, the vendors wish to re-apply for a permit at the Bancroft and Telegraph location, they may do so. Staff will review any future applications of that sort in light of the current conditions in the area and Council policy priorities pertaining to Telegraph District revitalization.

In the meantime, staff has encouraged the vendors to take advantage of the opportunity that has been created for them to continue their food sales operations at the College/ Bancroft location. For many years food vendors successfully operated in this vicinity, which has high pedestrian traffic, yet has less access to food service than the Telegraph/Bancroft location.

Attachment A: Conditions for operation at College and Bancroft



Department of Finance
Revenue Collection

The three Food Vendor Permits will be reinstated based on the following stipulations:

- Permit holders must place a sign that is plainly visible to customers at eye level on the outside front of their vending carts that reads as follows: **“Please respect neighboring food service businesses – do not use their seating to consume food purchased here”**.
- Permit holder’s customers must not negatively impact neighboring food service establishments through patterns of nuisance behavior.
- The new permits are specifically issued for the location on Bancroft near College in the area that is specifically assigned for your use.
- Vendors may not, at any time, place any objects, materials, boxes, trash, food, tanks, in the cross-hatched area on the pavement.
- The new permits will be for a one year period with two annual options to extend for one year. The vendors may operate at Bancroft near College location for a maximum period of 3 years after which the permits will expire permanently on March 31, 2016.
- The new vendor spaces will only be occupied until the permit expires on March 31, 2016 and will not be renewed to any vendors.
- The new permits may not be transferred to any other location.
- Permit is not transferable.
- As a condition of issuance of the new permits, the vendors are responsible for
 - keeping the area in the vicinity of their carts clean,
 - managing appropriate containment and disposal of trash,
 - Not encroaching on the sidewalk with garbage cans, tables, chairs or other obstructions
- In the event any operational issues come up, the vendors shall contact staff from the **Office of Economic Development** at 510.981.CITY (2489) as their principal liaison relationship with the City.

I _____ understand and agree to all of the conditions above.
Print Name

Signature

Date