

TORONTO STAFF REPORT

April 19, 2006

To: Economic Development and Parks Committee

From: General Manager, Parks, Forestry and Recreation
Acting Director, Purchasing & Materials Management Division

Subject: Potential Removal of Peanut and Nut Products in Parks, Forestry and Recreation Facilities
(All Wards)

Purpose:

To report to the Economic Development and Parks Committee on the findings of the consultation and research that was conducted on Peanut and Nut Products in Parks, Forestry and Recreation Facilities.

Financial Implications and Impact Statement:

Snack bar and the vending machine operators currently under contract with the Parks, Forestry & Recreation Division (PF&R) were asked to identify the effect of removing peanut and nut products from PF & R Facilities. Snack bar operators indicated that there would be annual losses in sales of 20- 25% and that they would request an adjustment to their commission rates or rents paid to the City of Toronto. The vending machine operator estimated a loss of sales between 40-50 % and that they would also request an adjustment in commissions paid to the City. The actual revenue from commissions and rents in 2005 was \$1,470, 631. Based on these findings and using a sales loss ratio of 20% it is estimated that Parks, Forestry and Recreation could see a loss of revenue of \$280,000 to \$290,000 annually.

With the adoption of recommendations contained in this report, it is anticipated that there would be no financial impact on the commissions and rents paid to the Parks, Forestry and Recreation Division.

These are just the financial implications for PF&R operated facilities and do not include the implications to other City-owned facilities, such as, the Toronto Zoo, Exhibition Place, and Arenas and Community Centres operated by Boards of Management. The financial effect could be of a greater magnitude for these and other non PF&R facilities.

Insurance and Risk Management has reported that currently there is no negative financial impact to the City related to liability claims associated with injury related to the availability of peanuts and other nut products in City facilities. If a peanut ban is implemented and notwithstanding the ban an allergic reaction takes place in a City facility, the City could be exposed to claims and ultimately increased insurance costs.

The Deputy City Manager and Chief Financial Officer has reviewed this report and concurs with the financial implications.

Recommendations:

It is recommended that:

1. Products containing peanuts and nuts continue to be available in Parks, Forestry and Recreation facilities;
2. Parks, Forestry and Recreation staff work with PF & R snack bar and vending machine operators to: (a) eliminate unpackaged peanuts and nut products; (b) reduce the quantity of peanut and nut products sold; (c) promote peanut and nut free products; and (d) provide more pre-packaged products with ingredient listings available;
3. Parks, Forestry and Recreation staff continue to work with Public Health and the Allergy Associations to develop programs to raise awareness and educate the public, PF&R Staff, and food handlers regarding prevention and management of anaphylaxis; and
4. the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

Background:

At its meeting of September 28, 29, and 30, 2005 City Council considered and adopted Report 8, Clause 12 titled Operation of Snack and Hot Drink Vending Request for Proposal 0613-05-0166 (All Wards) which provided advice of the healthier foods criteria component of the RFP for operation of snack and hot vending. This report clearly noted that natural nuts, seeds, legumes or mixtures of these products were consistent with healthy food choices.

At its meeting of October 26, 27, 28 and 31, 2005, City Council adopted Economic Development & Parks Committee Report 9, Clause 6 titled Request for Proposal (RFP) 0613-05-0166 Operation of Snack and Hot Drink Vending (All Wards) which awarded the agreement to the successful proponent, based on the terms of the Request for Proposal including the healthier foods criteria.

Parks, Forestry & Recreation Division reported to the Economic Development & Parks Committee in Report 1, Clause 10 on January 16, 2006 on ways to work with snack bar and vending machine operators on ways to address nut products. At that meeting, the Committee amended Committee Report 1, Clause 10 titled "Operation of Snack and Hot Drink Vending –

Nut Products in Parks, Forestry and Recreation Facilities,” to request the “General Manager of Parks, Forestry and Recreation, in consultation with the City Solicitor, to report to the Economic Development and Parks Committee on the feasibility of initiating a policy whereby the City’s Parks, Forestry and Recreation facilities (which include snacks and hot drink vending) be nut-free.”

At its meeting of January 31 and February 1 and 2, 2006, City Council amended the Economic Development and Parks Committee Report 1 Clause 10, titled “Operation of Snack and Hot Drink Vending – Nut Products in Parks, Forestry and Recreation Facilities” and adopted the following:

(1) the City Manager and appropriate staff of the City’s divisions, agencies, boards and commissions be requested to advise the snack bar and vending machine operators that City Council is requesting that peanut and nut products not be sold in City facilities where children frequent;

(2) the City Manager be requested to report to the March 9, 2006 meeting of the Economic Development and Parks Committee and the April 25, 2006, meeting of City Council on whether the snack bar and vending machine operators have removed peanut and nut products from City facilities; and

(3) all future Requests for Proposals, Leases and Agreements, etc. contain clauses to restrict the sale of peanut and nut products in all City facilities that children frequent; and further that the City Manager, in consultation with the Acting Director, Purchasing and Materials Management report to the Administration Committee on the policies required to bring this Council decision into effect.”

Comments:

The City Clerk has circulated City Council’s decision of January 31, February 1 & 2, 2006 to appropriate City divisions, agencies, boards and commissions and advised them to inform the snack bar and vending machine operators under their jurisdictions - that City Council is requesting that peanut and nut products not be sold in City facilities where children frequent.

Parks, Forestry & Recreation Division staff reported to the March 9, 2006 Economic Development and Parks Committee meeting that they were in the process of further consultation and research and that a report would be presented to the May 8, 2006 committee meeting. It was identified at that time that the report would also address the direction of City Council that all future procurement documents and policies be amended to restrict the sale of peanut and nut products in all City facilities as outlined in City Council’s recommendation 3 contained in the January 31, February 1 & 2, 2006 report.

At this time, except for the voluntary removal of loose nuts in bulkhead vending machines, no peanut or nut products have been removed or banned from Parks, Forestry & Recreation Division facilities pending Council’s consideration of this report.

The subject of this report is a highly charged matter that elicits strong emotion and debate. This report deals only with the costs and implications of the removal or ban of peanut/nut products in Parks, Forestry & Recreation Division facilities. It is assumed that there will be similar or potentially greater costs and implications for most of the City's agencies, boards, and commissions such as Exhibition Place, Toronto Zoo, and the Community Centres and Arenas operated by Boards of Management. If City Council decides to maintain a policy banning peanuts and nut products it is recommended that the City's agencies, boards and commissions be requested to report to City Council on the implications to their operations of implementing this policy.

In preparing this report, Parks, Forestry and Recreation Division staff contacted other municipalities, vendors, and city divisions (Legal, Insurance & Risk Management, Purchasing & Material Management, Public Health), conducted a literature search, and contacted external agencies who deal with peanut and nut product allergy issues.

Healthy Food Choices

Many packaged products containing peanuts and nuts contain nutritional value and the City's Public Health department recognizes this and supports their inclusion in the list of alternative healthy food choices for concessionaires and vendors. This recommendation for inclusion is based on the "Dietitians of Canada – Recommendations for School Food and Nutrition for the Ontario Ministry of Education" published October 20, 2004.

Banning Peanut/Nut Products

Nuts and nut oil are used extensively in the food business with the possible presence of nuts and nut oils in numerous foods ranging from baked goods to ice cream. Parks, Forestry and Recreation facilities are open to the public. As there is no way to ascertain whether people are carrying peanut/nut products, or may have been in contact with peanut/nut products prior to entering a city facility, imposing a ban on peanut and nut products would be impossible to put in place.

It is impossible to guarantee that a facility is peanut/nut product free and to do so would give a sense of false security which in turn encourages complacency. Opinions on this matter were solicited from the Legal Services and Insurance & Risk Management Divisions, both of whom indicated that there is no legal requirement of the City to warn the public that they are entering an area that may contain peanuts or nut products. In fact, there is a greater risk to those with nut allergies if it is stated that our facilities are peanut and nut product free because we cannot guarantee an allergen free environment. While the City may take steps to limit availability of peanuts and nut products, it is impossible to eliminate them. Ultimately the responsibility for avoidance must lie with the affected individual or the parent or guardian of the individual.

Staff contacted external agencies that deal with allergies and anaphylaxis to obtain information and more detailed understandings of the issue. The five agencies contacted were Association Quebecoise Des Allergies Ailmentaires; Canadian Allergy, Asthma and Immunology Foundation; Anaphylaxis Canada; Canadian Society of Allergy and Clinical Immunology; and

Allergy, Asthma Information Association. A published statement on Anaphylaxis Management by these five agencies is presented in Appendix A of this report. These agencies all indicated that education, awareness, hygiene and emergency preparedness are the most important risk-reduction strategies in managing the risks associated with anaphylaxis.

To illustrate how difficult a ban is to initiate and enforce, Nestle Foods, the only manufacturer to offer four guaranteed peanut/nut free products, announced February 25, 2006 that they had a recall on one of their products as it contained an undeclared peanut protein. Current food labelling regulations allow manufacturers to use the term “may contain” to indicate the possible presence of ingredients. Use of the phrase is not legislated, so both its use and meaning are inconsistent. This illustration reinforces the difficulty the City would have if it declared any facility to be peanut/nut free.

Implications for Future Requests for Proposals

Future Requests for Proposals (RFPs) for vending and concession rights that contain restrictions in the sale of nuts and nut products could limit the number of competitive bids received from the market place. Discussions with vendors of these products have indicated that the availability of products that are considered nut free is limited and those vending machine operators would not be able to provide alternatives at this point in time.

Recognizing this, future RFPs could require vendors to declare the quantity or percentage of products that may be considered nut free. Evaluation criteria could be included in the RFP in order to take into account the responses from vendors regarding the number of nut free products available to them.

At this time no changes are recommended to future RFPs in order to restrict the sale of peanut and nut products in all City facilities that children frequent.

Other Civic Departments and Agencies

The request that peanut and nut products not be sold in City facilities where children frequent has far reaching implications for the City's agency, board and commission facilities such as the Exhibition Place and the Toronto Zoo. The scope of the financial impact analysis does not take into account the potential loss to these facilities, but it is estimated and expected to be much larger in scale than the snack bar and vending machines.

Conclusions:

It is not possible to guarantee peanut and nut free facilities by removing peanuts and nuts from snack bars and vending machines. There are significant financial implications and major risk and liability issues for the City associated with a ban of peanut and nut products.

A ban creates a false sense of security and is not recommended by key associations that deal with the issue of anaphylaxis management. A policy banning peanut and nut based products should not be developed and implemented for City facilities.

It should be noted that the successful proponent submitted their proposal on the basis of the original Request for Proposal. The City could be subject to a potential legal challenge as we did not expressly exclude peanut or nut products from the Request for Proposal. To unilaterally change the license agreement to exclude peanut and nut products could have both financial and legal implications.

Staff will, however, continue to work with the snack bar and vending operators to reduce the number of products containing peanuts and nuts and eliminate unpackaged peanuts and nuts. Toronto Public Health and the Allergy Associations will continue to provide resources to educate the public, staff and food handlers on this important health issue of the prevention and management of anaphylaxis.

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List of Attachments:

Appendix A - Anaphylaxis Management

Appendix A

Anaphylaxis Management

Anaphylaxis is a growing public health issue. The most common causes are foods and insect stings. The most common food allergens are peanut, tree nuts, milk, egg, fish and shellfish and to a lesser extent, sesame, soy, wheat. From 1-2% of Canadians are thought to be at risk of anaphylaxis and the incidence in children is believed to be rising. While anaphylaxis has the potential to cause death, fatalities are rare and usually avoidable. The key to remaining safe is to completely avoid food allergens. Education, awareness, effective label reading, hand washing, cleaning and “no sharing” go a long way toward reducing the risk of accidental exposure.

Epinephrine is the treatment of choice to treat anaphylaxis and persons at risk of anaphylaxis must carry it with them at all times. Most deaths are associated with delay, underutilization or no utilization of epinephrine. Poor asthma control is also a factor. The age groups most at risk include older children, teens and young adults.

Primary responsibility for avoidance lies with the patient. Actual ingestion of the allergen poses the greatest risk. Risk avoidance measures include

- C Always reading ingredient labels carefully
- C No sharing of foods, utensils or containers
- C Adult supervision of allergic children when eating
- C Carrying safe snacks
- C Washing hands before and after eating
- C Wearing a medical identification bracelet and carrying an epinephrine auto-injector

Managing an allergy does not necessarily imply that others cannot eat or have access to the allergenic food. The important thing is that the allergic person does not ingest the food. Education, awareness, hygiene and emergency preparedness are the most important risk-reduction strategies in managing the risks associated with anaphylaxis. The recently published *Anaphylaxis in Schools and Other Settings* by the Canadian Society of Allergy and Clinical Immunology (2005) encourages schools and other childcare facilities to have regular staff training and emergency protocols in place. (Sabrina’s Law requires this in all Ontario schools.)

Many daycares have policies that restrict allergens since the children are too young to understand avoidance measures. Some airlines restrict peanut snacks because of the concern that the closed environment on the airplane will be contaminated by airborne peanut particles if all passengers are served these snacks and also because it is a difficult environment in which to treat a reaction.



ASSOCIATION QUÉBÉCOISE
DES ALLERGIES ALIMENTAIRES



Canadian Allergy, Asthma
and Immunology Foundation

Anaphylaxis Canada

Helping people live with deadly allergies



Canadian Society of Allergy
and Clinical Immunology

Allergy
Asthma
information
association

Many elementary schools also have policies in place to reduce risk of accidental ingestion. Some schools choose to restrict an allergenic food, particularly in situations where children eat in their classrooms or without adult supervision. Others establish allergen-free eating zones, for example, peanut-free areas where peanut allergic children can eat. Some restrict all foods in an allergic child's classroom. Such policies need to be individualized on the basis of the particular school setting and particular food allergies and should be part of an overall allergen education and emergency plan.

“Allergy-safe” does not equal “allergy-free”. It is impossible to ensure complete compliance with food restrictions or to guarantee an allergen-free environment. The allergic person and any caregivers must always assume that the allergen could be present in the environment and behave accordingly, taking on the primary responsibility for allergen avoidance and being prepared to quickly treat any unexpected reactions with epinephrine.

For more information:

www.allergysafecommunities.ca

Anaphylaxis in Schools and Other Settings (2005)
Canadian Society of Allergy and Clinical Immunology