



# PARKS AND RECREATION COMMISSION INFORMATION ITEM

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MEETING DATE: FEBRUARY 25, 2004

ITEM NUMBER:

SUBJECT: REQUEST OF RESIDENTS FOR DOG EXERCISE AREA AT BALEARIC CENTER

DATE: FEBRUARY 17, 2004

FROM: ADMINISTRATIVE SERVICES DEPARTMENT – RECREATION DIVISION

PRESENTATION BY: MARK TAYLOR, MANAGEMENT ANALYST

FOR FURTHER INFORMATION CONTACT: MARK TAYLOR, 714-754-5636

## RECOMMENDATION

It is recommended the Commission receive the information and provide direction to staff for future action.

## BACKGROUND

At the January 28, 2004, Parks and Recreation Commission meeting, residents from the Mesa Verde West area requested a portion of the Balearic Community Center turf area be set aside for use as an “off leash” dog area for resident use only. In the proposal, residents stated the area would be used from dawn until 8:30am and would not use the area if there were scheduled activities. The proposal states the residents are not comfortable with the existing dog park and the establishment of this area would improve neighborhood social interaction. The proposal implies this would be an area for the exclusive use of Mesa Verde residents, although during one subsequent conversation, it was mentioned that others would be allowed, but the use as an off leash area should not be advertised.

## ANALYSIS

Staff has researched the existing City Municipal Code for off leash dog parks and leash laws in general. The City’s code is specific when dealing with dogs, leashes, and off leash dog parks, referred to as dog exercise areas. All dogs must be on a secure leash of not more than six feet that is continuously in the hands of the person controlling the dog, unless the dog is in an enclosed dog exercise area.

*Sec 3-112 states, “No person having the care, charge or control of any dog shall permit or allow the dog to be present upon any street, alley, park or public place in the city unless such dog is securely restrained by a leash or chain not exceeding six (6) feet in length and to be held by that person”*

Under Section 12-42, a dog exercise area is defined as *“any fenced area or other enclosed area of a city park designated by the City Council by resolution or ordinance as an area where dogs may be off a leash”*.

The only exception to the leash requirement is Sec 12-42 (b) which allows dogs off leash when a permit is issued to conduct obedience classes and other types of trials or shows in a public place.

In addition, the Balearic Community Center (building and turf area) is a site leased by the City from the Newport Mesa Unified School District. Under the terms of the lease, the City agrees the Balearic site will be used for community service, educational purposes, recreation and related services. The lease states, "City recognizes the desire of the District to continue the use of Balearic Elementary Schools as a community center and, therefore, will establish appropriate usage policies under the auspices of those California Education Code sections commonly referred to as the Civic Center Act". Research of the Civic Center Act (Sec's 38130 - 38139) shows there are several intended uses of school sites including public meetings, discussions of general or public interest, child care or day care programs, supervised recreational activities, youth center and mass care and welfare shelters. It appears the intent of the Civic Center Act is to promote and encourage public meetings, activities and other opportunities for the benefit of the entire community. A visual inspection of signs on school property shows that unauthorized use of dogs is not permitted, and the City Municipal Code is cited.

Staff met with Costa Mesa Animal Control, a division within the Police Department, and discussed, in general, the issue of off leash dogs in City parks. Animal Control indicated there were several locations around the City where residents release their dogs to run on park and school grounds without leashes. Animal Control stated it is difficult to both inform and enforce leash laws because dogs and owners generally run away when approached. In addition, Animal Control indicated that because the dog is not under control, it will enter areas not intended for dogs. Under both the City code (Sec 12-43) and the County of Orange code (4-1-46), dogs are excluded from children's play areas. Several diseases may be transferable from dog feces to humans and it is important to keep dog waste from sand boxes and play areas where children are present.

Finally, there may be both safety and liability issues connected with the City designating a non-enclosed area as an off leash park. The existing dog park at TeWinkle Park is a fully fenced area with a double gate entry to prevent dogs from escaping while off leash. The park is clearly posted with the rules of the dog park and the City Code Sec 12-42 (d) 9, states the users consent to a waiver of liability benefiting the City and users agree to protect, indemnify and hold the City harmless from injury or damage caused by dogs while in the dog exercise area. Should the City allow a non-designated area for off leash activity, there is no consent/waiver and the City is knowingly allowing and permitting a dog to run loose. If that dog injures someone, there may be liability on the City. In addition, because the area is not fully enclosed, the animal may run across the street, causing an accident.

Two local cities, Huntington Beach and Long Beach, have designated areas where dogs may be off leash but not in a confined fenced area. Both locations are on the beach and specify the exact location of the "dog beach" including street names and distances and time of day allowed. Long Beach, whose "dog beach" was approved by the City Council, limits the use to one dog per adult and also includes waiver and indemnity language similar to the Costa Mesa dog exercise area.

## CONCLUSION

The City code is clear and states all dogs must be restrained by a leash when in public, unless in a dog exercise area (dog park). The Council retains the authority to designate dog exercise areas, and therefore the Commission cannot designate a portion of Balearic, or any City park as an off leash area. Commission may agendaize this request for further discussion and forward a recommendation to City Council regarding an off leash area.

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