



# ***CITY COUNCIL AGENDA REPORT***

MEETING DATE: NOVEMBER 16, 2010

ITEM NUMBER: IX-1

**SUBJECT: PROHIBITION OF FISHING, WATER CONTACT AND ANIMAL FEEDING AT TEWINKLE PARK**

**DATE: NOVEMBER 4, 2010**

**FROM: PUBLIC SERVICES DEPARTMENT – MAINTENANCE SERVICES DIVISION**

**PRESENTATION BY: BRUCE A. HARTLEY, MAINTENANCE SERVICES MANAGER**

**FOR FURTHER INFORMATION CONTACT: BRUCE A. HARTLEY (714) 754-5123**

---

## **RECOMMENDATION:**

Introduce and give first reading to ordinance to amend Title 12 of the Costa Mesa Municipal Code, Chapter II, Article 1, Section 12-20 to establish a new section prohibiting lake fishing and human water contact at TeWinkle Park Lakes, and to amend Title 12 of the Costa Mesa Municipal Code, Chapter II, Article 1, Section 12-20 (18) to prohibit the feeding of fowl at TeWinkle Park.

## **BACKGROUND:**

At the Parks and Recreation Commission meeting of September 22, 2010, the Commission unanimously approved two recommendations to the City Council to implement a prohibition of fishing and human water contact; and to prohibit the feeding of water fowl at the TeWinkle Park Lakes.

At the City Council meeting of May 20, 2002, the Council adopted Ordinance 02-10, Amending Title 12 of The Costa Mesa Municipal Code Section 12-20(18) to prohibit the feeding of wild animals in City parks, while at the same time removing from the prohibition the feeding of wild fowl in TeWinkle Park. The change in ordinance was intended to address the many issues created by well meaning park patrons that come to City parks daily and pour large quantities of bread or other food stuffs on the ground to feed pigeons, ducks, geese, etc. This food source results in growing population of resident pigeons, ducks, geese and unintentional increases in ground squirrel, rat, and skunk populations. On a daily basis, patrons have been observed discarding a wide variety of leftover food, which decomposes and creates an unsightly and unhealthy mess in the parks.

During construction and upon completion of the renovation of the TeWinkle Park Lakes in May 2006, City staff noted the potential vulnerability of the circulation and aeration systems to damage from park patrons entering the lakes and the impacts of fishing lines possibly becoming entangled in the underwater lines. At that time, it was decided not to attempt implementing a ban on fishing or human contact with the lake water. This was based on the assumption by staff that the popularity of these activities over a long period of time in the past would make restricting them unpopular and very difficult to find support for with the Parks and Recreation Commission and City Council without some definitive

evidence supporting the contention that the lake systems could be damaged as a result of them.

The overall appearance and water quality of the lakes depends heavily on a water circulation system delivered through large PVC piping laid on the lake bottom throughout the lakes and weighted ozone/aeration tubing laid on the lake bottom in key locations. The circulation lines and nozzles are just below the surface in many locations and are vulnerable to damage both intentional and unintentional. Similarly, the aeration lines are vulnerable to being snagged by fishing lines. These lines are weighted softer plastic lines.

Over the past few years, nylon fishing lines have proven to be very damaging to the lake circulation and aeration lines. When anglers snag the piping or aeration lines and then pull to recover their tackle, sub-surface circulation pipes have been broken and aeration lines have been dislodged from their shore based air/ozone supply lines. This may also be caused by park patrons that recreate inside the lakes themselves and step on the lines. Unfortunately, the resulting breaks in the circulation lines are several feet below the surface of the water and are not repairable without totally draining the lakes, at a significant cost in replacement water. The broken lines compromise the integrity of the circulation system and have resulted in a decline in overall effectiveness.

Over the course of several months this year, it became apparent that the water circulation in the lakes was well below what was observed in the first few years of operation. With poor water circulation, City staff and the public have noticed the accumulation of trash and debris in some locations and a dramatic increase in algae growth. The overall decrease in the effectiveness of the existing lake systems required the use of chemicals to manage algae growth at acceptable levels. With poor circulation and the constant addition of fecal matter from overfed water fowl, the battle against algae blooms became very challenging. Additionally, without proper circulation and aeration, the natural decomposition systems in the lake do not break down the high nutrient load of the fecal matter generated by the excess feeding of the water fowl. This leads to poor water quality and elevated bacteria levels.

The combination of algae and high bacteria levels could make the water a potential health hazard, and certainly unsuitable for public contact. There is no water sanitizing system incorporated into the lake management equipment. This potential health hazard reduces the overall quality of the lakes, negatively impacts the enjoyment by patrons, and creates a significant liability for the City, should any serious illness attributable to the lakes occur.

In June 2010, with one of the large circulation pumps experiencing significant problems, the decision was made to remove the two large pumps and inspect them for damage. The damage to the pumps from debris entering them was significant and costly to repair. The lake circulation systems were non-operational for approximately six weeks and the total cost of repairs was in excess of \$28,000. During the 'down time' for pump repairs, feasible repairs of circulation systems, aeration/ozone systems, lake leaks and other items were completed. Unfortunately there were some repairs that could not be completed due to the high cost and the necessity to drain the lakes to make them. To keep the lakes operational and prevent greater expenditures, the leaking east upper water fall was deactivated; the automatic lake fill line was re-routed, and attempts were made to improve the integrity of the upper lake to reduce unmanaged water flow into the lower lake. At that time, significant amounts of contract labor were utilized to clean the

lower lake bio-filter and remove as much algae growth and debris as possible from all the lakes.

## **ANALYSIS**

### **Fishing:**

With the pumps completely renovated and reinstalled, water circulation has improved. There is funding in the FY 2010-11 Capital Improvement Program budget to install three aerating fountains and to replace the aeration/ozone system with a more effective aeration system. It is anticipated that these expenditures will increase the oxygen levels in the lake water, promoting improved aerobic decomposition of fecal matter on the lake bottom and aiding in the efforts to reduce algae development, and bacteria levels. The new aeration system was installed within the past two weeks. The fountains are anticipated to be installed before the end of the year.

With nearly \$40,000 already spent on restoration to damaged lake systems; and another \$70,000 of budgeted improvements underway, it is vital for the health of public, the lake and to control maintenance costs that a ban on fishing and public water contact be implemented. The aeration lines, electrical supply lines and the motorized fountains could be damaged by fisherman pulling on them. Damage of this nature is not covered by manufacturer warranties.

### **Feeding Waterfowl:**

The overfeeding of water fowl, both domesticated and wild, has resulted in a dramatic increase of non-migrating fowl. This population has destroyed all the shrubs and colorful landscape plantings that were added to the lake renovation project; has increased the pollution of the water and the surrounding turf areas with excessive fecal material; and created a potential public safety hazard; an unnatural and unhealthy reliance by the fowl on low nutrition food sources (bread) that are detrimental to the health and mobility of the wild fowl. Additionally, with easily available food, the wild birds tend to remain and breed with domesticated fowl; becoming non-migratory. To address public safety, wild fowl health, as well as to provide a relaxing and beautiful environment to public, the prohibition of feeding wild life is essential. Currently there are signs around the lakes with educational information attempting to convey to park patrons the negative impacts of feeding wild fowl. The signs appear to have had limited impact on the problem.

## **ALTERNATIVES CONSIDERED**

1. Council could prohibit only fishing.
2. Council could prohibit only the feeding of water fowl; both wild and domesticated.
3. Council could take no action to amend the Municipal Code as it relates to the lakes at TeWinkle Park.

## **FISCAL REVIEW**

There are no direct fiscal impacts related to the recommended Municipal Code amendments. However, there may be a reduction in future maintenance and repair costs

associated with lake circulation and aeration systems if the recommended code changes are effective in reducing equipment damage and improving water quality. There would be minor costs associated with manufacturing and installing prohibition signs. There may be unknown costs associated with enforcement of new regulations.

**LEGAL REVIEW**

The City Attorney has reviewed this item and has prepared an appropriate draft ordinance for Council consideration based on staff recommendations.

**CONCLUSION**

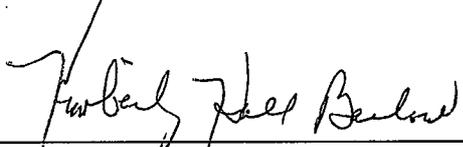
The continuous fishing over the past few years has resulted in significant damage to the lake aeration system; creating a potential safety hazard to the public as well as causing unnecessary and preventable maintenance costs. The prohibition of fishing will reduce the damage to the circulation systems in the lakes and support the overall management goals of improving the lake water quality without the use of chemicals.

Although feeding wild and domesticated animals at TeWinkle Park Lakes appears to be a harmless activity for park visitors, it contributes to the over population and declining health of the animals and increases the pollution of the lakes. Restricting the feeding of water fowl will improve the overall water quality of the lakes and encourage a more wild population of migrant birds, rather than providing an abundant source of low nutritional value foods, which ultimately increases the fecal material in the lakes.

Both recommendations will support the fundamental concept of creating and maintaining a healthy sustainable lake and the associated population of wildlife. The result will be a more aesthetically pleasing park and lake setting for residents and visitors to enjoy.

  
\_\_\_\_\_  
PETER NAGHAVI, DIRECTOR  
Department of Public Services

  
\_\_\_\_\_  
BRUCE HARTLEY  
Maintenance Services Manager

  
\_\_\_\_\_  
KIMBERLY HALL BARLOW  
City Attorney

ATTACHMENT: Ordinance

Distribution: City Manager  
Assistant City Manager

# ATTACHMENT 1

## ORDINANCE NO. 10-

### AN ORDINANCE OF THE CITY COUNCIL OF COSTA MESA, CALIFORNIA AMENDING SECTION 12-20 "DISORDERLY CONDUCT" OF ARTICLE 1 "GENERALLY" OF CHAPTER II "USE REGULATED" OF TITLE 12 "PARKS AND RECREATION" OF THE COSTA MESA MUNICIPAL CODE TO PROHIBIT FISHING AND FEEDING OF WILD FOWL IN CITY PARKS

#### THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, the overall appearance and water quality at TeWinkle Park lakes depends heavily on a water circulation system delivered through large PVC piping laid on the lake bottom throughout the lakes and weighted ozone/aeration tubing laid on the lake bottom in key locations; and

WHEREAS, the aeration lines are vulnerable to being snagged by fishing lines and over the past few years, nylon fishing lines have proven to be very damaging to the lake circulation and aeration lines when anglers snag the piping or aeration lines and then pull to recover their tackle resulting in large decreases in the overall effectiveness of the water circulation and aeration systems; and

WHEREAS, the decrease in effectiveness of the water circulation and aeration systems has been observed to cause increased accumulation of trash and debris in some locations and a dramatic increase in algae growth; and

WHEREAS, well meaning visitors to TeWinkle Park Lakes pour large quantities of bread and other foodstuffs on the ground for the feeding of pigeons, ducks, geese, and other fowl, and said food being left on the ground has been observed to decompose and leave unsightly and unhealthy messes, and serves to attract a growing population of rats, skunks, and ground squirrels; and

WHEREAS, the increased populations of rats, skunks, and ground squirrels contribute inordinate amounts of fecal matter into the lakes at the same time the lakes suffer from decreased efficiency of the water circulation and aeration systems compromises the lakes' ability to decompose the fecal matter, increases poor water quality, and causes elevated bacteria levels, and aggressive algae growth; and

WHEREAS, the water circulation and aeration systems remain vulnerable to fishing and human water contact; and

WHEREAS, the overfeeding of water fowl, both domesticated and wild, has resulted in a

dramatic increase of non-migrating fowl resulting in damage to landscaping, increased pollution of the lakes and surrounding turf areas, creating a potential public health hazard; and

WHEREAS, existing signs around the park educating visitors on the negative impact of feeding wild fowl, appears to have insufficient impact to deter the negative effects of this behavior; and

WHEREAS, the existing prohibition on feeding wild fowl should be extended to include TeWinkle Park; and a ban on fishing should be adopted; and

WHEREAS, adoption of this amendment will prohibit the feeding of wild fowl at TeWinkle Park and fishing in TeWinkle Park Lakes thereby protecting the efficiency of the water and aeration systems and avoiding a potential human health hazard.

**THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1: TITLE 12 AMENDMENT.** Section 12-20, entitled "Disorderly Conduct" of Article 1 of Chapter II of Title 12, Parks and Recreation, of the Costa Mesa Municipal Code is hereby amended as follows:

- a. Amend Title 12, Chapter II, Article 1, Section 12-20, Disorderly Conduct, by revising the existing language of Sub-Section (a)(18) to read:

"Feed or cause to be fed wild animals, including but not limited to opossums, skunks, raccoons, and squirrels, or wild fowl, both migratory and nonmigratory, including but not limited to ducks, geese, and pigeons. ~~except that this section does not pertain to wild fowl at TeWinkle Park.~~"

- b. Amend Title 12, Chapter II, Article 1, Section 12-20, Disorderly Conduct, by adding Sub-Section (a)(19) to read as follows:

"Fishing or any attempt to catch fish or crayfish, by line, net, or other method, in any fountain, lake, marsh or fishpond in any park or recreation center, whether from shore or by wading."

**SECTION 2: ENVIRONMENTAL DETERMINATION.** The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA guidelines, and the City's environmental procedures, and has been found to be exempt pursuant to Section 15308 of the CEQA Guidelines, in that the City Council hereby finds that the ordinance is being adopted to further protect the environment.

**SECTION 3: INCONSISTENCIES.** Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this ordinance, to the extent of such inconsistencies and or further, is hereby repealed or modified to the extent necessary to

affect the provisions of this ordinance.

**SECTION 4: SEVERABILITY.** If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.

**SECTION 5: PUBLICATION.** This Ordinance shall take effect and be in full force thirty (30) days from and after the passage thereof, and prior to the expiration of fifteen (15) days from its passage shall be published once in the ORANGE COAST DAILY PILOT, a newspaper of general circulation, printed and published in the City of Costa Mesa or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance together with the names and member of the City Council voting for and against the same.

**PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_ 2010.**

\_\_\_\_\_  
Mayor of the City of Costa Mesa

ATTEST:

\_\_\_\_\_  
City Clerk of the City of Costa Mesa

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

