

COUNCIL AGENDA: 10-05-04

ITEM: 5.6



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Sara L. Hensley

SUBJECT: SEE BELOW

DATE: 10-01-04

Approved

Kay Winer

Date

10/1/04

COUNCIL DISTRICT: Citywide
SNI AREA: N/A

SUBJECT: URGENCY ORDINANCE AMENDING SECTION 7.10.010 OF TITLE 7 OF THE SAN JOSE MUNICIPAL CODE TO CREATE AN EXEMPTION TO THE PROHIBITION ON ANIMAL TRAPS, FOR FEDERAL, STATE, AND COUNTY EMPLOYEES AND THEIR DULY AUTHORIZED AGENTS, IN THE DISCHARGE OF THEIR OFFICIAL DUTIES, AND INITIATION OF A PERMANENT ORDINANCE FOR THE SAME PURPOSE.

RECOMMENDATION

Consideration of the Urgency Ordinance amending San Jose Municipal Code section 7.10.010 to create an exemption for federal, state, and county employees and their duly authorized agents, in the discharge of their official duties, from the prohibition on animal traps in the City of San Jose and initiation of a permanent ordinance for the same purpose.

BACKGROUND

Santa Clara County Vector Control Request

On September 21, 2004, Vector Control District, a Santa Clara County special district in the Environmental Health Department ("Vector Control"), sent a letter to Animal Care Services stating they have determined that "extraordinary circumstances exist necessitating the use of the padded-jaw leg-hold trap to protect human health and safety in the vicinity of the Villas of Almaden." Vector Control cites specific events including a coyote attack on a leashed dog while walking with its owner; a coyote becoming trapped in a homeowner's garage; and several accounts of coyotes following residents without any sign of fear. Traditionally, Vector Control is the entity that removes coyotes in the County and they deem these events significant, warranting immediate action.

Vector Control has asked the City to review its current ordinance prohibiting all forms of leg-hold traps, including the padded-jaw leg-hold trap.

Coyotes

The California State Department of Fish and Game has advised Animal Care Services that a confrontation between a coyote and human would be an immediate threat and public safety problem. The State Department of Fish and Game consider incidents such as the occasional attack on a domestic cat, observation of coyotes in a group, and/or the observation of a den, to be normal sightings that require coexistence.

Generally, wild animals living in close proximity to San Jose neighborhoods do not present a threat to humans or domestic animals. In the wild, the coyote preys upon small mammals (rodents, rabbits), birds, reptiles, arthropods, fruit, plants, and dead animals. Coyotes are omnivorous feeders (eat both plants and meat) and opportunistic predators that change their diet with the seasons. Coyotes also demonstrate learned feeding behavior.

Coyotes can become habituated to a suburban neighborhood. They learn to obtain food from human sources such as food left out for pets, wildlife feeders, and garbage. As coyotes become less fearful of humans, they will hunt outdoor cats and small pets near homes.

In 2003, Vector Control received at least 73 calls regarding coyotes. Most reports were observations of coyotes in close proximity to humans and cat deaths. A 2003 study by the University of California, California State Polytechnic University-Pomona, and USDA APHIS Wildlife Services, titled *Coyote Attacks: An Increasing Suburban Problem*, documents at least five (5) coyote attacks on humans in Southern California last year.

Most cases of coyote attacks on humans arise from circumstances similar to that described in the preceding paragraphs. The coyote's adaptation to living in close proximity to humans will inevitably lead to public health and safety risks. Based on recent developments, Animal Care Services is concerned with the coyotes that have adapted to the presence of humans in certain neighborhoods along the borders of San Jose.

Methods to Capture Coyotes

The two consistently successful methods for removing coyotes are shooting with a firearm or capture by a padded-jaw leg-hold trap. The padded-jaw leg-hold trap is considered more humane than its predecessor, the steel-jawed leg-hold trap, because of its design. The impact to the animal cannot be completely reduced with this type of device. The risk to humans and domestic animals can be reduced through the proper techniques, monitoring and notification to residents, but not completely eliminated.

Staff has also explored other capture methods and techniques. For instance, the USDA National Wildlife Research Center has authorized further investigation of Propiopromazine Hydrochloride, a new animal tranquilizer. The drug is administered by a rubber nipple (trap tab)

fastened to the jaw of the trap. Once captured, the animal will instinctively bite on the trap tab and ingest the tranquilizer. However, this tranquilizer device is not currently available.

Other alternative capture techniques such as dart tranquilizers, box traps, or snares do not have a high level of success. For example, tranquilizers may not fully sedate the animal before it hides to recover from the effects or runs and causes an accident in a suburban area. The neck snare has varying degrees of success with coyotes, wolves and dogs. The snare is buried or concealed and then baited. When the animal grabs the bait, the snare loops around the neck like a noose.

In all instances listed above, when coyotes that have become nuisances are captured, they are euthanized.

ANALYSIS

Section 3003.1 of the California Fish and Game Code bans all forms of leg-hold traps except as to federal, state, county, or municipal government employees or their duly authorized agents in the extraordinary case where the otherwise prohibited padded-jaw leg-hold traps is the only method available to protect human health and safety.

Currently, section 7.10.010 of the San Jose Municipal Code prohibits all forms of leg-hold traps within the city limits without exception. The proposed Urgency Ordinance would create an exemption similar to the state law for federal, state, or county government employees in the discharge of their official duties and where they have determined the padded-jaw leg-hold trap is the only method reasonably available to protect human health and safety or, that alternative methods pose a greater danger to the public.

Under the proposed Urgency Ordinance, Vector Control would be required to obtain consent from private property owners before they employ the padded-jaw leg-hold traps. The City would not be involved in Vector Control's initial determination to use the traps nor the actual placement and monitoring of these traps.

By contrast, the City would require Vector Control to enter into an agreement with the City before they could employ the padded-jaw leg-hold trap on property owned and controlled by the City. Such an agreement should limit the City's exposure to risks posed by Vector Control's use of the padded-jaw leg-hold traps on City property.

The proposed Urgency Ordinance is intended to address the immediate threat of coyotes to public health and safety in the Almaden Villas. The proposed Urgency Ordinance would expire 45 days from the effective date of a Council action, or, once Vector Control has captured the coyotes in the Almaden Villas and determined that the threat no longer exists, whichever event occurs first.

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COST IMPLICATIONS

None.

PUBLIC OUTREACH

A community meeting was held on September 15, 2004 with the Almaden Villas residents.

COORDINATION

This memorandum was coordinated with the City Attorney's Office.

CEQA

CEQA: Exempt (PP04-276)

The Director of Planning, Building & Code Enforcement has determined the proposed Urgency Ordinance is exempt under CEQA Guideline section 15269(c) for emergency projects because Vector Control has made a determination that the coyotes present a current, immediate, and continuing threat to the public health and safety. Once the immediate threat is mitigated and if the City intends to adopt a permanent exemption, the City will conduct additional environmental analysis related to the adoption of a permanent exemption.



SARA L. HENSLEY
Director of Parks, Recreation
and Neighborhood Services