

COUNCIL AGENDA: 10-26-04

ITEM: 5.8(a)

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Sara L. Hensley

SUBJECT: SEE BELOW

DATE: 10-25-04

Approved

Date

10/26/04

COUNCIL DISTRICT: Citywide

SNI AREA: N/A

**SUBJECT: A REVIEW OF ALTERNATIVE METHODS USED TO EXPEL THE
COYOTE POPULATION LIVING IN THE VILLAS OF ALMADEN**

RECOMMENDATION

Encourage the County of Santa Clara Vector Control to use snares for 10-days to capture coyotes before the use of the padded-jaw leg-hold trap. Adoption of an Urgency Ordinance enabling the Santa Clara Vector Control to use the padded-jaw leg-hold trap consistent with their letter dated September 21, 2004 (Attachment A).

BACKGROUND

At the October 12, 2004 meeting, City Council recommended staff to return with information regarding the following:

1. Conduct an environmental review of the leg-hold trap ordinance and return in two weeks with findings and recommendations.
2. Bring back an ordinance, as proposed October 5, 2004 by Mayor Gonzales, precluding the feeding of animals in areas where there is a risk of attracting coyotes and other dangerous wildlife.
3. Evaluate staff recommendation for passive and active strategies to expel the coyotes and determine which are feasible/not feasible.
4. Research what other cities have done, both long and short term solutions.
5. Report back on what strategies the homeowners have already used, and include the recommendations they have been following.
6. Determine a regional strategy: if the coyotes are expelled from the Villas of Almaden, where will they go? What are the community options?
7. Request a letter from the State Department of Fish and Game indicating the use of leg-hold traps is the only method available to protect human health and safety.

ANALYSIS

1. **Conduct an environmental review of the leg-hold trap ordinance and return in two weeks with findings and recommendations.**

Pursuant to City Council direction on October 12, 2004, the Planning, Building and Code Enforcement Department executed a contract with a biologist to perform an initial environmental analysis. The biologist has completed his initial analysis and a memorandum will be submitted under separate cover.

2. **Bring back an ordinance, as proposed October 5, 2004 by Mayor Gonzales, precluding the feeding of animals in areas where there is a risk of attracting coyotes and other dangerous wildlife.**

Many communities enacted ordinances that prohibit feeding wildlife to protect marine life, and as a way to decrease overpopulation of deer and geese. Anti-feeding laws exist to decrease threats to the community from bears, raccoons, and fox that carry rabies (East Coast). Some communities impose fines for violating the law, e.g., 60-days in jail and fines up to \$500.

Other ordinances enacted prohibit storing or holding trash that enables animals, wild or domestic, to scatter trash. In some communities, wild bird feeding is exempted, as long as the birds eat the feed immediately in the presence of the feeder.

The City Attorney's Office will provide an ordinance under a separate cover.

3. **Evaluate staff recommendation for passive and active strategies to expel the coyotes and determine which are feasible/not feasible.**

This response is combined with Item #5 below.

4. **Research what other cities have implemented; both long and short term solutions.** Staff research suggests that most County Vector Control Departments utilize commercial neck and leg snares to capture coyotes as a first priority, and leg-hold traps when these methods are not successful. In addition, a California State Fish and Game, Code 3003.1 that prohibits the use of leg-hold traps except in certain specialized circumstances further restrict cities. Staff contacted several jurisdictions as follows:

- The County of Santa Clara Vector Control uses a box trap to capture coyotes, and leg-hold traps when box traps are unsuccessful. The Town of Los Gatos-Town Council recently authorized the Santa Clara County Vector Control to remove and euthanize several coyotes using leg-hold traps. Santa Clara County Vector Control trapped 35 coyotes between 2001 and 2004. Twenty-eight coyotes were trapped using a leghold trap, and seven were trapped using a snare.

The County of Los Angeles Department of Agriculture removed 78 coyotes this past year. Of the 78 coyotes removed, four were removed by shooting, and 73 were removed using a commercial neck snare. Los Angeles County staff stated their use of leg-hold traps average once a year. In extraordinary cases, they authorize the use of leg-hold traps. County staff indicated that commercial neck and leg snares are effective in capturing and removing coyotes.

Alameda County contracts a United States Department of Agriculture trapper for coyote and wildlife removal.

Fresno County staff captures "hundreds" of coyotes a year using neck snares, box, and leg-hold traps. Staff utilizes "species specific attractant" to reduce the capture of non-target animals.

5. Report back on what strategies the homeowners have already used, and include the recommendations they have been following.

Mr. Bud Spadafore, President of the Villas of Almaden, in an October 21, 2004 letter outlined the actions the Villas of Almaden owners will take in cooperation with the City of San Jose to provide long-term mitigation of coyotes within the Villas of Almaden (Attachment B).

Specifically, Mr. Spadafore outlined the following actions the Villas of Almaden owners are taking:

- The Villas of Almaden owners were advised not to feed wildlife under any circumstances. Salt licks, birdfeeders, and water sources were removed, and the Association will monitor and remove any such sources that are inadvertently left out by owners in the future.
- The Villas of Almaden owners were advised not to feed their domestic pets outside.
- Rule prohibiting the storage of garbage outside will continue to be strictly enforced.
- Compost materials are not allowed in Common Areas or on private lots.
- The Villas of Almaden owners were advised to keep domestic animal indoors unless under direct supervision.
- The Villas of Almaden Association will work with the County of Santa Clara Vector Control to affix a barrier to the entry of an abandoned den site (concrete drainage culvert) that will preclude coyote re-entry, yet allow for all necessary drainage.
- The Villas of Almaden Association will report any new or potential den sites to the County of Santa Clara Vector Control.
- Landscape maintenance will be kept in accordance to City of San Jose suggestions. The Villas of Almaden do not maintain fruit trees other than flowering plum trees. The Oak Wildlife habitat will continue to be maintained in accordance with the Planned Development Permit.

The Villas of Almaden landscape update project has been eliminating plants that are attractive to deer, and installing plants that are considered deer-resistant according to the Association's Landscape Architect, Russell Stringham. The Villas of Almaden additionally sprayed plants with mountain lion urine, deer repellent chemicals, and used deer repellent shock devices manufactured by Havahart.

In addition to the passive recommendations contained in staff's October 12, 2004 memorandum to Council, staff included active techniques to be performed by outside professional groups. These active techniques will be evaluated after implementation. Active techniques are historically effective and have been used in many communities, including some communities in the bay area.

6. Determine a regional strategy: if the coyotes are expelled from the Villas of Almaden, where will they go? What are the community options?

The County of Santa Clara Vector Control will remove, not expel, coyotes from the Villas of Almaden. The County of Santa Clara Vector Control is the lead agency responsible for responding to and evaluating coyote complaints. Staffing shortages precludes the County from mounting an aggressive, proactive education campaign, such as targeted mailers or ongoing relationships with the affected Homeowner Associations. The Santa Clara County Vector Control responds to information requests or community presentations upon request. Animal Control Services will coordinate with Santa Clara County Vector Control and other wildlife agencies, as needed.

When the Santa Clara County Vector Control determines that a significant threat exists, they will deploy box traps and leg-hold traps as necessary. Santa Clara County Vector Control has had the greatest success capturing coyotes with leg-hold traps.

7. Request a letter from the State Department of Fish and Game indicating the use of leg-hold traps is the only method available to protect human health and safety.

Vice Mayor Pat Dando will address this item under a separate cover.

COST IMPLICATIONS

The cost of actions on the part of City staff, as outlined above, are expected to be supported by existing budgeted resources. Any City appropriate actions that require additional funding above current budgeted allocations will be brought back to the City Council for consideration.

COORDINATION

This memorandum was coordinated with the City Attorney's Office, Department of Planning Building and Code Enforcement, Council District 10.

HONORABLE MAYOR AND CITY COUNCIL

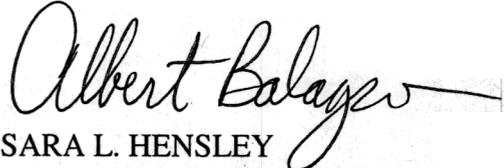
10-25-04

Subject: Alternative Strategies to Abate Coyotes in Villas of Almaden

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CEQA

Exempt. PP04-276.


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

Attachment A

Attachment B



County of Santa Clara
Environmental Resources Agency
Department of Environmental Health

Vector Control District
976 Lenzen Avenue
San Jose, California 95126
(408) 792-5010 FAX 298-6356

September 21, 2004

Jon E. Cicirelli, Deputy Manager
Parks, Recreation & Neighborhood Services
Animal Care & Services Division
1821 Zanker Road
San Jose, CA 95112

The Vector Control District has determined that extraordinary circumstances exist necessitating the use of padded leg-hold traps to protect human health and safety in the vicinity of the Villas of Almaden. This determination was based upon District investigations and information received at recent meetings with residents of the Villas of Almaden and adjacent neighborhoods. Residents informed us of the following significant incidents: a coyote attacking a leashed dog during a walk with its owner; a coyote becoming trapped in a homeowner's garage; and several accounts where coyotes were observed to be following or exhibiting no fear of residents. These events in totality, particularly the attack of the leashed dog, support our determination of the existence of circumstances necessitating the use of padded leg hold traps to protect human health and safety.

Repeated attempts by the Vector Control District to capture coyotes utilizing box traps set at the Villas of Almaden (August 20 to September 3, 2004) were not successful.

The District's health and safety trapping response is controlled and regulated by California Fish and Game Code Section 3003.1, a copy is included with this letter. Subsection (c) prohibits the use of any steel-jawed leg-hold trap, padded or otherwise. However, the subsection does provide an exception for government employees "in the extraordinary case where the otherwise prohibited padded-jaw leg hold trap is the only method available to protect human health or safety".

San Jose currently has an ordinance, which is more restrictive than the California Fish and Game Code cited above, and bans the use of leg-hold traps within the city limits of your jurisdiction. Before the District can implement the provision provided in state law, in lieu of your local ordinance, the District needs clarification of your jurisdiction's position on the use of padded-jaw leg-hold traps by government employees as in the current situation where public safety and/or health are threatened.

If San Jose residents are to receive this level of safety and public health protection, the city can repeal the local ordinance and adopt the current California Fish and Game Code section 3003.1 or send a letter indicating that your ordinance does not prohibit the use of

Board of Supervisors: Donald F. Gage, Bianca Alvarado, Pete McHugh, James T. Beall Jr., Liz Kniss, County Executive: Peter Kutras, Jr.

padded leg-hold traps by the Vector Control District. The District wants to make sure that it has the cooperation and agreement of San Jose prior to using padded leg-hold traps in the current situation at the Villas of Almaden and other instances where other trapping methods, such as box traps, have failed and the safety and/or public health to the resident may be at risk.

Your representative may contact this District at 408-792-5010 or Deputy County Counsel, Kathy Kretchmer, at 408-299-5920 to discuss this matter. Until such time as the City/Town Ordinance prohibiting the use of leg hold traps within your jurisdiction is modified or repealed, or a letter from your Council or Attorney acknowledges that your ordinance does not prohibit the use of padded leg hold traps by the Vector Control District, the District will not be using leg hold traps in such warranted situations.

Sincerely,

Tim Mulligan *MS*

Tim Mulligan, Manager
Santa Clara County Vector Control District

Cc: Patricia Dando, Vice Mayor of San Jose
Tim Chow, Director ERA
Ben Gale, Director DEH
Kathy Kretchmer, Deputy County Counsel

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall Jr., Liz Kniss, County Executive: Peter Kutas, Jr.

The Villas of Almaden

October 21, 2004

Ms. Sara L. Hensley
Director, Parks, Recreation and Neighborhood Services for the City of San Jose
4 North 2nd Street, Suite 600
San Jose, CA 95113

Dear Ms. Hensley,

This letter is in response to your October 8, 2004 memo to the Honorable Mayor and City Council regarding a review of alternative non-lethal methods that may be used to expel the Coyote population currently living in the Almaden Villas development.

In response to the strategies outlined in your memo, please be advised that the Villas of Almaden has taken the following actions in cooperation with the City of San Jose to provide long term mitigation of Coyotes within the Villas of Almaden:

Passive Techniques

1. The Villas of Almaden residents have been advised that they should not feed wildlife under any circumstances. The few occurrences, which existed in the past of salt licks, bird feeders and water sources, have been eliminated from the Villas of Almaden. Owners have been educated and the Association will continue to monitor and remove any such food sources that are inadvertently left out by owners in the future.
2. The Villas of Almaden owners have been advised not to feed their domestic pets outside.
3. The Villas of Almaden has always had rules prohibiting the storage of garbage outside the units. Specifically, Article IV Section 4.12 of the Declaration of Covenants Conditions and Restrictions for the Villas of Almaden Homeowners Associations states as follows:

Trash disposal. Trash, garbage, recyclable containers, accumulated waste plant material, or other waste and refuse ("refuse") shall be regularly removed from the lots and shall not be allowed to accumulate except temporarily between regular removals. Such refuse shall be deposited only in City approved containers located inside an owner's residence or garage and concealed from view. Refuse containers may be placed outside

the residence for pick up the day before each scheduled pick up and must be returned to their inside locations not later than the day after pick up. No owner or resident shall cause or permit any refuse to be kept upon any portion of any lot or elsewhere in the development, except in such containers. No portion of the development shall be used for the storage of building materials in connection with approved construction.

The CC&R's are recorded against each property at the Villas of Almaden, and the Villas of Almaden strictly enforces this refuse storage rule.

4. The Association does not compost materials in the Common Area, nor are owners allowed to compost materials on their lots.
5. Per your recommendation to keep domestic cats and small dogs indoors unless under direct supervision, please be advised that Article IV Section 4.11 of the Declaration of Covenants Conditions and Restrictions for the Villas of Almaden states the following:

Animals. Only domestic dogs, cats, birds, fish and other customary household pets may be kept in reasonable numbers, subject to the rules and any ordinances of the City, provided they are not kept, bred, or raised for commercial purposes. While in Common Areas each dog must be restrained in conformity with City ordinances. "Reasonable numbers" shall mean not more than the total number of all dogs, cats, or other pets permitted under any ordinances of the City.

Therefore, the Villas of Almaden has recorded rules against each property, which require owners to maintain their domestic pets in accordance with existing City ordinances.

6. The Villas of Almaden has had Vector Control evaluate the recently abandoned den site. We will work with Vector Control to affix a barrier to entry by the Coyotes. Since the primary den site is a concrete drainage culvert, a barrier must be installed that will still allow all of the necessary drainage from the natural hillside to occur without causing flooding or adverse runoff to adjacent homes. As you are aware, despite the fact that the Coyotes are no longer using the current den site, the Coyotes still live on the Villas of Almaden and move around on a daily basis to different locations.
7. The Villas of Almaden will report any new den site or potential site to Santa Clara County Vector Control. All homeowners will be advised as to this requirement.

Your memo also states that the Villas of Almaden should also commit to make a continuing effort to take the following actions:

- a. *Avoid ornamentals, such as ivy, grape ivy, other vines, prostrate myoporum, or other such plants that produce fruit or attract rabbits or*

rats. Please be advised that the Villas of Almaden, in the past quarter of a century, has never had ivy, grape ivy, or other vines. Two small sections of prostrate myoporum, totaling approximately 100 square feet, were installed in the past six months – these can easily be removed if needed. Further, the Association does not have any plants that produce fruit except some flowering plum trees discussed in item (d) below.

- b. ***Prune landscaping on a regular basis, maintain ground covers so they are kept low and thin.*** We would invite any officials from the City of San Jose to take a look at the landscape maintenance at the Villas of Almaden. The Association has a professional outside landscape company, Common Ground Landscape, which maintains the Villas of Almaden on a regular basis. There is a crew of three full-time gardeners on site Monday through Friday to maintain the landscape. As you are aware, the Villas of Almaden is subject to the City's Planned Development Permit PD79-016-03 and all landscape as originally installed by the developer complied with the Planned Development Permit. Further, the Villas of Almaden is identified as an Oak Wildlife Habitat, which requires the Association to maintain Common Areas and landscape so as to provide native forging, roosting and nesting habitat for wildlife.
- c. ***Keep skirts of shrubs and trees near wild land areas and children play areas pruned up several feet off the ground.*** Again, the Villas of Almaden has always fulfilled this requirement as part of its routine landscape maintenance. Please be advised that there are no children's play areas within the Villas of Almaden.
- d. ***Harvest fruit from their trees and always clear the ground of any fallen fruit.*** Please be advised that Association does not have fruit trees within the property other than some flowering plum trees, which are sprayed on an annual basis to inhibit the growth of fruit. If any plums do form and drop, they are immediately cleaned up by the full time gardening crew. The flowering plum trees are a very minor part of the tree and landscape stock at the Villas of Almaden. Further, the flowering plum trees that exist within the Villas of Almaden were planted in accordance with the original landscape design and PD Permit issued by the City of San Jose and implemented by Shea Homes.
- e. ***Consider a deer harassment program that will encourage the deer to leave the Villas of Almaden.*** As previously been stated by the Villas of Almaden and is evident to all people familiar with the property, including surrounding neighbors, the deer come and go freely from the Villas. Again, the deer are attracted to the Villas of Almaden because it is an Oak Wildlife habitat developed in accordance with the Planned Development Permit issued by the City of San Jose more than twenty years ago. Further, deer will not frequent the adjacent Golden Oak Park area due to the fact that people are allowed to let their dogs run freely through the park.

In 2001 the Villas of Almaden hired a landscape architect and implemented the refurbishment of landscape in the various tracts of homes. Since the property is more than twenty years old, some of the landscape has reached the end of its useful life. Since 2001 the Association has spent more than \$187,000 to upgrade four of the nine landscape tracts. As part of this significant landscape upgrade project, the Villas of Almaden has been eliminating plants that are attractive to deer and installing plants that are considered deer-resistant in accordance with the Association's Landscape Architect, Russell Stringham. This landscape upgrade project and the move toward deer-resistant plants was in process by the Villas of Almaden prior to the existence of any Coyote problem on the property. This has been a voluntary upgrade project performed by the Villas of Almaden at its sole cost and expense in an effort to minimize the amount of damage to Common Area plants due to the free moving deer population that often frequents the Villas.

As part of the process to discourage deer from frequenting the Villas and eating the plants, the Association has used mountain lion urine, sprayed the plants with deer repellent chemicals, and has used humane deer repellent shock devices manufactured by Havahart. All of these attempts have been made over several years, and none have been successful at discouraging the deer.

In your memo you provide some recommended active techniques for the expulsion of Coyotes in the short term. This recommendation fails to recognize that Villas of Almaden is not a community that is nestled in the foothills of Almaden or anywhere near Quicksilver Park. The Villas of Almaden is completely surrounded by residential neighborhoods, schools and public parks. An effort to expel the Coyotes from the Villas of Almaden will simply move this imminent threat into surrounding neighborhoods, schools and parks. We do not believe this is a reasonable or responsible approach to control the imminent threat of aggressive urbanized Coyotes.

Further, your memo recommends strategically opening fencing to allow free movement of deer into the surrounding foothills. Once again, it is apparent to anyone who has observed the Villas for a period of time that the deer roam freely in and out of the Villas of Almaden. The existing low fencing is not an impediment to the deer or other forms of wildlife. Also, the surrounding foothills are not adjacent to the Villas. The closest foothills are consumed by Boulder Ridge golf course, and the deer would need to cross Almaden Expressway and several housing developments to reach these closest hills, which is unlikely.

The Villas of Almaden looks forward to continue working productively and collectively with Vice Mayor Dando's office, the Parks and Recreation Department, Vector Control, Fish and Game in order to bring short-term and long-term solutions to this matter. We respectfully request that our short-term goal of removing those coyotes whose behavior is a threat to public safety be removed and we continue our long-term goal of deterring coyotes from entering any residential areas in the future. Our hope is that this case can help the entire city of San Jose so that this problem does not reoccur.

The Villas of Almaden accepted and agreed to the conditions specified in the email from John Cicirelli on September 29, 2004 identifying short and long-term mitigation efforts. We are committed to continue to work forward in this manner.

The Villas of Almaden has made every effort, and commits to continue making every effort, to cooperate with the City of San Jose, County Vector Control and the California Department of Fish to take all steps necessary to implement mitigation measures which, in the long term, are predicted to be a deterrent to the reoccurrence of Coyotes within the Villas of Almaden. However, none of the alternative non-lethal methods recommended by the City or local groups to date addresses the immediate threat of aggressive urbanized Coyotes. Simply forcing the Coyotes out of the Villas of Almaden and into surrounding neighborhoods could be considered unreasonable and irresponsible.

One of the most important services provided by any City to its residents is public safety. There is an acknowledged imminent threat to public safety from these urbanized coyotes. California State Law has a reasonable exception to the use of leg hold traps in order to protect human health and safety. This exception must be adopted by the City of San Jose in order to adequately protect its residents.

The Villas of Almaden believes it has taken all reasonable measures to cooperate with the City of San Jose in attempting to implement long-term mitigations as a deterrent to Coyotes. Action is needed now. It is once again requested that the City of San Jose implement an urgency ordinance to allow the use of padded leg hold traps method that will remove the threatening coyotes without any further delay in order resolve the Coyote threat. It is also respectfully requested that the City of San Jose adopt a permanent change in the City Ordinance to be consistent with State Law, thereby providing a method by which to protect human health and safety from adverse wildlife conditions.

Thank you.

Sincerely,



Bud Spadafore
President, Board of Directors
Villas of Almaden Homeowners Association