

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: Ron Nelson, Captain 

DATE: November 15, 2011 (CC Meeting of 12/07/11)

SUBJECT: Consider Possible Alternative Methods for Controlling Destructive Wild Rabbits that Cause Damage to Vegetation on Private and Public Property

SUMMARY

During the regularly scheduled City Council Meeting of November 2, 2011, Councilmember Van Dam requested a future agenda item to discuss methods to assist in the control of nuisance wild rabbits, either through ordinance or permit. A few private property owners and Homeowners Associations (HOA's) within the City have complained that wild rabbits have caused significant damage by consuming ornamental vegetation. These property owners have borne significant monetary expense while replacing damaged vegetation. Wild rabbits can be controlled by a variety of methods, including target hardening, trapping, poisoning, and shooting, however each method has its pros and cons.

DISCUSSION

According to California Department of Fish and Game, and other resources, the "Brush Rabbit" is the most indigenous wild rabbit species found in the City, as well as other regions in coastal Southern California. Brush rabbits are considered wild game animals, and can be legally hunted from July 1 through January 1, with a daily limit of five rabbits. A license is required to legally hunt rabbits. However, pursuant to Fish and Game Code Section 4186, nothing in the Fish and Game Code prohibits the owner or tenant of land from taking cottontail or brush rabbits during any time of the year when damage to crops or forage is being experienced on that land. This section also allows for any person who is not the landowner or tenant to take rabbits for the same purpose if the person has written authorization from the landowner or tenant.

According to several wildlife control specialists, rabbit populations can be controlled through target hardening, trapping, poisoning, and shooting. Target hardening, which includes fencing, and the use of repellents, is not normally an option in large open areas such as many of the HOA's found within the City. It is difficult to control access to open areas of land when rabbits can dig, and easily fit under existing gates. The use of repellents that can be sprayed on vegetation to make the plants distasteful is also not a viable option in large areas since vegetation grows quickly and would have to be continually re-sprayed at significant cost. This leaves the options that provide for the reduction of the wild rabbit population.

Trapping of wild brush rabbits can be difficult, mostly due to the habits of these animals. Brush rabbits are creatures of habit, and mainly forage in a normal pattern. Traps can be baited and placed in areas known for foraging rabbits in an attempt to catch the rabbits alive, however rabbits normally avoid the traps and eat foliage around the traps since the traps are not anything they are used to entering in their daily routine. Rabbits are occasionally caught in traps, however their breeding habits typically outpace the number of rabbits that are caught. The placing of traps does not require any special permits, however, the property owner should be prepared to show the need to capture rabbits if questioned by Fish and Game authorities.

Poisoning has also had some limited success in reducing wild brush rabbit populations. Unfortunately, poisoning also has some drawbacks that make it a less than effective method of control. Poisons such as anti-coagulant, anti-reproductive, and protein starvation chemicals can affect other wildlife that is not intended for control. These chemicals can also get into the local groundwater and cause other unintended negative consequences. The placing of poison does not require any special permits, however, the property owner should be prepared to show the need to kill rabbits if questioned by Fish and Game authorities.

Most wildlife control specialists agree that the shooting of rabbits is the most effective method for limiting populations. Shooting is usually conducted with a small caliber firearm or an air-powered pellet rifle. Rabbits can be easily targeted and killed by someone skilled with an air-powered pellet rifle.

There are a few drawbacks to shooting destructive rabbits. One negative impact is the potential for negligent discharges leading to the injuring of people and property. Although not normally lethal to humans, air-powered pellet rifles can cause significant injury, and possibly death if a pellet were to strike the right place under high power. Another negative impact is the potential for law enforcement to be called by persons mistaking someone armed with a pellet rifle for a dangerous armed person, leading to violent and possibly lethal encounters with law enforcement officers.

In 2007, at the request of Assemblyman Todd Spitzer, then Attorney General Bill Lockyer issued an official opinion regarding the legality of shooting wild rabbits with air-

powered pellet projectiles. His opinion took up the issue in relation to California Fish and Game codes governing aspects of hunting, and shooting within 150 yards of occupied residences. To summarize, Attorney General Lockyer opined that it was legal to do so as long as the rabbits are causing damage to property, that the person conducting the work has the permission of the property owner, and as long as the shooting of air-powered pellet guns does not violate local regulations.

Under section 7, of article XI of the California Constitution, “A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.” This includes ordinances regulating the discharge of firearms and other weapons.

The current Moorpark Municipal Code, adopted in 1983, prohibits the discharge of firearms, including air-powered pellet guns within the City. Section 9.24.010 states the following:

- A. *No person shall fire, shoot or discharge within the limits of the city any gun, rifle, pistol or any spring gun, spring rifle or spring pistol, or any carbon dioxide or other gas-operated gun, rifle or pistol.*
- B. *The discharge of such guns, rifles or pistols includes blank ammunition and/or the discharge of a muzzle loader having a powder charge. (Ord. 19 § 2 (part), 1983)*

Section 9.24.020 allows for exceptions to the prohibition of discharging weapons within the City limits, and the closest exception is section A. 2. below, however in consultation with the City Attorney and the District Attorney’s Office, this exception is interpreted to mean wild dangerous animals that could threaten harm to humans or pets. It also does not allow for controlling the untrained general public, versus a licensed professional, from being able to shoot weapons under these conditions.

- A. *The provisions of Section 9.24.020 of this chapter shall not apply to:*
 - 2. *Any person while lawfully defending life or property, including the destruction of injured animals or any predatory or dangerous animals; or...*

A check of the cities within Ventura County revealed similar prohibitions. A small number of other California cities have amended their codes in an attempt to allow for the use of projectile weapons by licensed pest control professionals. As an example, the City of Mission Viejo amended its municipal code in September 2010, mandating its city manager to “issue a permit to any licensed pest control company, veterinarian, or similar animal control licensee for the purpose of using a projectile weapon for control of destructive animals.” Mission Viejo’s ordinance allows for the city manager to impose

restrictions deemed necessary or desirable for the existing conditions. As written the amended ordinance complies with state and federal laws, and allows for a degree of control so that untrained members of the community are not allowed to shoot pellet guns and thereby threaten the safety of other members in the community.

Our municipal code could be similarly amended to allow for the control of destructive wild rabbits by adding a new exception to section 9.24.020 (A) such as:

9.24.020 (A) 6.

Notwithstanding section 9.24.010, the city manager, or his/her designee, may issue a permit to any licensed pest control company, veterinarian, or similar animal control licensee for the purpose of using a projectile weapon for control of wild animals that are destructive to vegetation. The city manager, or his/her designee, may impose any conditions that are deemed necessary or desirable, including, but not limited to, a limitation on the duration of the permit, the hours of animal control, the location the animal control may occur and type and caliber of the projectile weapon.

Amending the code as written above would allow for a licensed professional to carry out the shooting of nuisance wild rabbits, minimizing any danger to the public, and allow for each permit to be individually tailored to meet the needs of the location and situation.

FISCAL IMPACT

None

STAFF RECOMMENDATION

Direct staff as deemed appropriate.