

DATE ISSUED: September 5, 2003 REPORT NO. 03-182

ATTENTION: Natural Resources and Culture Committee,
Agenda of September 10, 2003

SUBJECT: Invasive Exotic Plant Ban Ordinance

REFERENCE: Manager's Report No. 02-118, dated May 21, 2002

SUMMARY

Issue – What steps can the City take to restrict the use of arundo, tamarisk, cape ivy and pampas grass within the City of San Diego?

Manager's Recommendation – Direct Governmental Relations Department to include adding pampas grass to the State's Noxious Weed List into the Legislative Program and to take the lead in preparing a letter to the County and State Agriculture commissioners, with a copy to other cities in the County, requesting their support, urging an "A" rating for arundo, tamarisk, and cape ivy and a "B" rating for pampas grass after it is approved on the State's Noxious Weed List. Encourage the California Exotic Pest Plant Council and the San Diego Association of Nurserymen to implement an educational/outreach program as described in this report. Adopt certain revisions to the Land Development Code and Land Development Manual Landscape Standards as described in this report.

Since this was last before the Committee, the County Agriculture Commissioner has expressed her opinion that the City is pre-empted from adopting an ordinance regulating noxious weeds within the City. The City Attorney will address the pre-emption issue in a separate report.

Other Recommendations – The Association of Nurserymen, San Diego Chapter, recommends a proactive education/outreach program to reduce the consumer demand for pampas grass, arundo, tamarisk, and cape ivy instead of an ordinance banning their sale and importation (see Attachment 1).

Fiscal Impact – None with this action.

BACKGROUND

At the February 13, 2002 Natural Resources and Culture Committee (NR&C) meeting in response to a presentation on the invasive nature of pampas grass by Carrie Schneider of the California Native Plant Society (CNPS), the Committee voted to:

1. Direct the City Attorney and City Manager to draft an ordinance to ban the sale, cultivation, and import of all varieties of pampas grass;
2. Direct the City Attorney and City Manager to draft an ordinance to ban the sale, cultivation, and import of other problem invasive nonnative species;
3. Include notice of the ban in the City of San Diego's Landscape Guidelines;
4. Urge the proper City departments to remove pampas grass from City-owned land;
5. Develop and implement a public awareness program to advise the public about problems with pampas grass;
6. Urge landowners to remove existing pampas grass;
7. Direct staff to develop a specific list of other problem invasive nonnative species; and
8. Direct Governmental Relations Department to work towards State legislation relative to banning the sale, cultivation and import of pampas grass.

On June 12, 2003, the NR&C reviewed the Manager's Report No. 01-11, dated May 21, 2002, that provided: 1) a draft ordinance banning sale, cultivation, and import of all varieties of pampas grass, cape ivy, arundo, and tamarisk; 2) a copy of revised landscape standards and Land Development Code to reflect the draft ordinance language and included a list of other invasive plants which would be prohibited from being planted adjacent to or in native habitats, canyons, water courses, or wetlands; 3) a description of current City activities to remove nonnative species from City open space; 4) recommendations for public awareness and outreach; 5) a list of other invasive exotic plants that occur or may occur within City of San Diego; and 6) current status of State Legislation to ban sale, cultivation, and import of pampas grass as provided by the Governmental Relations Department.

NR&C voted to approve the Manager's recommendation to adopt the ordinance dated May 2002, and directed staff to:

1. Encourage the County of San Diego and other cities within the County of San Diego to take similar actions regarding invasive plants.
2. Adopt changes as outlined in the comments on the proposed ordinance submitted by the California Native Plant Society.
3. Ensure that the language utilized in the proposed Land Development Code amendments is consistent with the language in Section 63.1602 of the proposed ordinance.
4. Define the word "cultivation" as solely for business purposes.
5. In paragraph 4, Section 142.0403 of the draft language to the Land Development Code, eliminate the words "and root systems".
6. Remove Melaleuca quinquenervia from the plant substitution list.
7. Notify local nurseries of actions taken by the Natural Resources and Culture Committee before this item is heard before City Council.

DISCUSSION

City staff from the Attorney's Office, Park and Recreation, Real Estate Assets, Development Services, Environmental Services, and Planning departments have continued to meet to respond to the direction NR&C gave at the June 12, 2002 meeting, as well as hold meetings with the County Agriculture Commissioner, Kathleen Thuner, the California Native Plant Society, and the San Diego Chapter of the Nurserymen's Association President, Bill Tall. The following discussion corresponds to the NR&C June 12, 2002, motions as described earlier in this report.

Motion 1: Encourage County of San Diego and Other Cities in San Diego County to Take Similar Actions Regarding Invasive Plants – There are currently no legislative proposals pending in the State Legislature to add pampas grass to the State Noxious Weed List, as certain counties consider it to be an agricultural crop and it is considered invasive only in coastal California. Upon approval and direction by the City Council, the Governmental Relations Department could take the lead on drafting a letter to the County and State Agriculture commissioners urging an "A" rating for arundo, tamarisk, and cape ivy and a "B" rating for pampas grass after it is approved on the State Noxious Weed list. Other cities with the County and the County itself should be copied on the letter and encouraged to write similar letters to the State and County Agriculture commissioners.

Motion 2: Adopt the Changes Proposed by the California Native Plant Society into the Proposed Ordinance – During the meeting with the County Agriculture Commissioner, the issue of whether the City has the authority to enforce an ordinance banning the sale and importation of plants was raised. In addition, the recent additions of arundo, tamarisk, and cape ivy to the State Noxious Weed List do not necessarily ban their sale and importation. A rating will be given to those species related to their ability to be sold or imported with the enforcement responsibility resting with individual county agriculture commissioners. An "A" rating does not allow for sale/importation of a listed noxious weed; a "B" rating leaves it up to individual county commissioners whether a noxious weed should be banned for sale/importation within their counties; and a "C" rating generally allows the sale/importation of a weed on the Noxious Weed List.

The County Agriculture Commissioner recommended that the City not proceed with the ordinance and instead petition the State and County agriculture commissioners to add pampas grass to the Noxious Weed List with a "B" rating, which would leave it up to individual counties to determine if the plant should be banned for sale, cultivation, and importation in their county. Then, the City could petition the County Agriculture Commissioner to ban the sale, cultivation, and importation of pampas grass in San Diego once a "B" rating had been approved for pampas grass. Currently, arundo, tamarisk, and cape ivy are on the Noxious Weed List but have no rating. A petition to State and County Agriculture commissioners for an "A" rating for these three species was also recommended.

The City Attorney's Office is preparing a report summarizing the position of the County Agriculture Commissioner and City Attorney's position on whether the

City could enforce an exotic plant ban ordinance or whether the Commissioner is correct in her assertion that the State has precedence in this matter.

Motions 3-6: Revisions to Land Development Code Section 142.0403 and Land Development Manual Landscape Standards - Proposed revisions that are recommended at this time include the removal of Melaleuca quinquenervia from the substitution list in Section 1.3-1.04 of the Landscape Standards, and removal of the phrase “and root system” from Section 142.0403, Paragraph 4 of the Land Development Code (Attachment 2). Other potential revisions to Section 142.0403 of the Land Development Code and Section 1.3-1.03 of the Land Development Manual Landscape Standards (Attachment 2) can be made depending upon how the State categorizes the plants that have been listed as noxious weeds. Staff will continue to monitor this process and make changes as necessary.

Motion 7: Notification of California Association of Nurserymen, San Diego Chapter – City staff from Development Services and Park and Recreation Departments met with the California Exotic Pest Plant Council (CALEPPC) member Mike Kelly and San Diego Nurserymen’s Association (NA) President Bill Tall to discuss the proposed ordinance and general issues related to invasive exotics. CNPS was also invited to this meeting but was unable to attend. The NA expressed concern with additional regulations (see Attachment 1) and proposed a proactive two-year pilot project to educate the public about the negative aspects of invasive exotic plant species and provide descriptions and recommendations for noninvasive alternatives. CALEPPC supported the idea of an educational/outreach program and offered to partner with the NA. The premise of this approach is that the sales of these four species would dwindle as the educational/outreach program was implemented, eventually reducing the demand to such an extent that nurseries would no longer consider them profitable to stock, thus avoiding the need for additional regulation.

Suggestions made during the meeting for an effective education program included:

1. Ads on TV, such as County and City stations and public service announcements;
2. City web page with links to other related internet sites;
3. Videos to air on TV or show to community groups, such as “Keep It in the Garden” being developed by the County and NA, videos already available from CALEPPC, and creation of new videos with message to only use noninvasive species;
4. Pamphlets that could be distributed with the water bills or made available at nurseries and government buildings;
5. Planting lists providing noninvasive, native wherever possible, alternatives;
6. Posters;
7. Onsite nursery displays of alternative plantings;
8. Outreach to all growers, nurseries, and store chains carrying plants; and
9. Press releases describing partnership between CALRPPC and NA and emphasizing the importance of planting alternatives to invasive plants.

During this two-year education program, the nurseries and growers within San Diego County would keep records on the number of sales/shipments of pampas grass, tamarisk, arundo, and cape ivy in order to evaluate the effectiveness of the education effort and avoid any additional regulation. Mr. Tall of the San Diego Nurserymen's Association volunteered to contact the State NA to see what materials are already available and to solicit funds to augment whatever funding the San Diego chapter of the NA would put toward the effort. The City volunteered the City web site and cable channel to air the educational material and list of alternative plants.

A subsequent meeting between County and City staff and representatives from CNPS resulted in an additional suggestion. It was agreed to pursue a multi-agency, non-profit group effort to seek grants to fund a docent program to educate landscape architects, nursery employees and customers, and the general public about the negative effects of invasive exotics and the possible noninvasive alternatives. The grant funds would provide for the hiring of a docent coordinator to prepare docent training material and programs/display materials for the docents to use in educating the public, nurseries, and landscape architects on the problems associated with using invasive exotics in landscaping and the possible alternative planting options. The docent coordinator would also oversee the recruiting, training, and scheduling of docents.

ALTERNATIVES

1. Do not adopt proposed changes to the Land Development Code.
2. Do not direct Government Relations Department to include adding pampas grass to the State's Noxious Weed List.

Respectfully submitted,

Ellen Oppenheim
Park and Recreation Director

Approved: Bruce A. Herring
Deputy City Manager

OPPENHEIM/HIX/RS

Attachments: [1. Letter from California Association of Nurserymen, San Diego Chapter](#)
[2. Proposed Amendments to Land Development Code and Land Development Manual Landscape Standards](#)