

Email to Parks and Recreation Commissioners and Director Gaffney
from Michael Lewis and Jean Brocklebank
with response from Director Gaffney
January 7, 2022

Dear Commissioners ~

Once again we come to you with good news!! After reviewing Agenda and Minutes of Parks Commission meetings (between 1995 and 2008) we found the evidence that relieves Director Gaffney from having to prohibit dogs at Scott Creek Beach, **because former Director Barry Samuel already did it**. In 2001. Twenty years ago!

This evidence is what Director Gaffney wanted to find -- that Prohibition of Dogs at Scott Creek Beach is and has been **county policy** since **May 14, 2001** when the Parks Commission voted (5-0) to make it so, after former Director Samuel presented his specific request to the Commission at their meeting.

At the **May 14, 2001** Parks Commission meeting the **Agenda packet** contained the following **Status Report on Current Projects**. Note that the report states that "*per the permit requirements of the Scott Creek Beach project and due to the presence of the threatened bird, the Beach at that location will become/has become a 'No Pets Allowed' beach.*"

Scott's Creek Beach: Reber Construction Company, Inc. has completed the dune restoration work and is now into the maintenance period for that portion of the project. The contractor has also completed all concrete and paving work related to the transit bus stop and beach access improvements. The installation of the informational and regulatory signage and construction of the Highway One pull-outs will follow shortly. The construction of the interpretive deck, boardwalk and post & cable fencing will be completed at the end of the snowy plover breeding season in late September, 2001.

Snowy Plover Protection Program 2001: The breeding season is underway and due to workload constraints, the volunteer training program will not occur until mid May this year. One significant development this year is that per the permit requirements of the Scott Creek Beach project and due to the presence of the threatened bird, the Beach at that location will become/has become a "No Pets Allowed" beach. This issue may be brought to the attention of the Parks Commission as an agenda item and will involve a press release, additional signage at the beach and stepped up patrols by the Sheriff Department for enforcement. Laguna and other beaches will remain at current leash law regulations with all County Parks.

The **Minutes** of the **May 14, 2001** Commission meeting (as found in the June 12, 2001 agenda packet) contain the **Director's Report** at the 5/14/01 meeting:

Director's Report

The Scott Creek beach project is completed for the summer and will be started again in the fall. A major component of the job is to increase protection and nesting sites for the snowy plover and endangered species. To that end I would like to recommend to the Commission that we ban dogs from Scott Creek Beach. They can be very destructive to the nests of the snowy plover. I would ask that we put this on our next agenda for discussion and possible action.

Note that the Director asked the the matter be placed on the **next agenda** for discussion and possible action. It was. The Minutes of the **June 12, 2001** Commission meeting reflect the staff report, including that "*dogs on and off leash must be banned to further protect these birds.*" The minutes also include comments of two commissioners, as well as the Motion and **unanimous** (5-0) vote of the Commission.

June 12, 2001 Minutes

- Dogs on Scott Creek Beach;
Staff Report - As part of the development permit the Department is required to protect the Snowy Plover. This type of bird nests in the sand, fencing has been placed around these nesting sites. However dogs on and off leash must be banned to further protect these birds. Signage will be placed on the beach. The sheriffs' office will patrol and enforce the ordinance on beaches if there is a sign to that effect.

Commissioner Rosenberg would this ban be for all animals and how much area needs to be protected? All animals going near the nesting sites are endangering these birds.

Commissioner Jenkins what is the square footage of the area? The fenced area is 30 to 40 acres. [Note typo. It is 3 to 4 acres]

MOTION: Ban all animals from Scott Creek Beach (Mercer/Jenkins 5/0)

Conclusion: Director Gaffney does not need to do anything -- other than to honor the policy established by his predecessor twenty years ago and fix the signage at Scott Creek Beach to clearly state that dogs (or pets) are prohibited. He can also leave the Parks web site alone, changing nothing, since it **does not conflict** with official policy.

At your December 6, 2021 meeting, during his Director's Report, Director Gaffney acknowledged that County Code provides that the Director has the authority to prohibit dogs from the Parks county beaches. From a transcript of the audio recording of the 12/6/21 meeting Director Gaffney said he could not find any evidence that action to prohibit dogs at Scott Creek Beach had been taken previously.

Director Gaffney: "*Right now there is signage that says dogs have to be on leash, the issue comes down to a dog prohibition on the beach. And so for that to happen, there's a county ordinance that we have, that **I don't find any history of our agency or our commission taken action on.***"

The ordinance to which Director Gaffney referred is 10.04.100(C), which states: "Notwithstanding any other provision of this section, the Director has the authority to prohibit dogs and cats in any park or part thereof **after submitting the proposal to the Parks Commission for review and approval.**"

Thinking that this was never done, Director Gaffney apparently felt he would have to take the action, with approval of this current Parks Commission. He has been hesitant to do so for over two years. From the meeting transcript:

Director Gaffney: "So just for clarity, the ordinance requires an action by both me and the commission to prohibit animals, dogs or cats ... I don't have that action, **I can't find a record of that action.**

We found it! Our research clearly provides evidence of "*a record of that action.*"

We are attaching the entire year of the Commission's 2001 meeting notes that pertain to Scott

Creek Beach, so you may read for yourself the portions of the Commission's *eleven* meetings that year.

You'll be able to note that the Director, staff, and the Commission were all on the same page, working together to move the Scott Creek Beach Access Project forward, by following the 1996 USFWS Biological Opinion (the "*federal mandate*") recommendations and proposed rules, required for a Federal permit to mitigate the impact (loss) of one acre of Snowy Plover habitat by preserving, enhancing and monitoring the remaining nesting and overwintering habitat at the county-owned beach.

As we reviewed years of work by the Commission and Parks staff, we were pleased to see how much effort and care had been expended on behalf of the Snowy Plover. There was always celebration at news of a successful nesting season.

As to the non-necessity of removing Prohibition of Dogs from current Parks web pages, we are pleased to report that in 2021, according to City Parks Director Tony Elliot (in a 1/3/22 email), the County participated, with City Parks taking the lead, in refreshing the "**Where Can I Take My Dog**" brochure, which was printed, distributed, and placed online on the City Parks web site. We stumbled upon the shiny new brochure in a little library near Frederick Street Park! The pictures of dogs and owners have changed from the 2010 version, but the *text remains the same* and continues to prohibit dogs from Scott Creek Beach and Quail Hollow Ranch. According to Director Elliot, the brochure update was done in 2021 as City and County Parks collaborated on park etiquette and rules.

We're sending this report a full month before your February 7 meeting. We fully expect that the Commission will support established county policy by making the Scott Creek Beach agenda item an Action item this time around, with a Motion made and passed by the Commission to "*advise the Parks Director to change the signage at Scott Creek Beach to conform to established county policy.*"

Sincerely,
Jean Brocklebank
Michael Lewis

On Jan 7, 2022, at 9:40 AM, Jeff Gaffney wrote:

Hi Jean,

This does seem to be good news!

I can not believe that Jennifer was able to find this floppy disk with the minutes and agendas on it from 20 years ago. She is amazing! She was quite surprised and it did take a lot of her time but she finally found an old fashioned binder with floppy disks in it and they were not even labeled properly.

Thank you for helping her and us sort through the last couple of decades of various types of media and information to get here.

We will continue to go through the remaining floppy disks so we can get them all into our digital files and finish the research on this project.

Best and healthy regards!

Jeff

On Jan 7, 2022, at 10:00 AM, we replied:

Hello Jeff ~

We're pleased you are pleased!

And yes, Jennifer's excellence is a boon to the Department and Commission, as well as providing service to the public.

Public records are essential for good governance and we're glad to have also been of service in that regard. We'll call this a public/private partnership, the best kind of collaboration.

We've also reviewed the Parks Habitat Conservation Plan of 1995 and the Parks Biological Assessment of March 1996. Parks records provide a wealth of information about Scott Creek Beach and the North Coast Beaches in general, also, which will serve as important documents as the County goes forward in its new planning for north coast properties.

Our very best regards,
Jean and Michael