



MEMORANDUM

To: Paul Walters, Interim City Manager **Date:** January 27, 2012

From: Mark Lawrence, Executive Assistant to the City Manager

Subject: OVERVIEW OF THE ISSUES RELATED TO A NEIGHBORHOOD REQUEST TO RESTRICT ACCESS TO THE FOOTPATH RUNNING BETWEEN JACK FISHER PARK AND THE CLASS I BICYCLE PATH THAT TERMINATES AT THE 5 FREEWAY

Purpose

The purpose of this memo is to identify the broad categories of issues that would need to be studied in detail were there an effort made, either through a fence or other access control device, to restrict public access to Santiago Creek between Fisher Park on the west and the Class I bicycle path terminus at the 5 freeway on the east. This memo contains information from various City agencies, but is not a detailed analysis. Other outside agencies with jurisdiction over the creek, such as Orange County Flood Control, were not contacted for this memo.

Background

Property owners residing along this stretch of Santiago Creek requested that the City investigate the potential of fencing the access to the creek area at the point of the terminus of the existing Class I bicycle path and the beginning of the informal foot path that runs north of the creek bed along private property. The property owners cited as their reason for making this request concerns about trail users trespassing on private property, as well as with transient and criminal activity in the creek bed area. Staff from Parks and Recreation, Police, Fire, Planning and Building, and Public Works met to discuss this issue and to provide initial feedback.

The Class I bicycle path terminus is located underneath the 5 freeway. The paved path is enclosed in a tunnel for the section that goes under the freeway. The only access to the tunnel is from the portion of the path that runs by the Discovery Science Center. The tunnel ends at the point where the path ends and then there is open access to the creek bed. Private rear yard walls are visible on either side of the creek bed. The footpath begins immediately adjacent to the paved path on private property and then proceeds west continuing on private property almost until the entry to Jack Fisher Park. The City has not conducted a land survey of the area, so the exact location of the footpath in relation to the private property boundaries has not been confirmed by the City. The following aerial photograph shows the approximate location of the bicycle path terminus and the adjacent private property lines.



Santiago Creek West of the 5 Freeway Showing Property Lines

As it stands today, pedestrians have full access to all portions of the creek bed upon exiting the tunnel regardless of the presence of private property lines. There is ample evidence that the area is well used by members of the public. The footpath is used by walkers and bicyclists, and the larger creek bed area is frequented by transients and taggers. There are sometimes fires in the creek bed and other crime associated with transient activity, including people camping underneath the freeway overpass.

Due to the fact that the creek does carry water during storm periods, residents on the south side of the creek have retaining walls to prevent the creek from flooding their properties. These are generally located well within the boundaries of their property and do not run contiguous with the property line itself. Many properties on the north side of the creek also have fences that do not run contiguous with their property lines. This has created the perception that the property outside of the adjacent fence lines is part of the public right-of-way and is, therefore, available for public use. This perception is further strengthened given the location of the terminus of the Class I bicycle path immediately adjacent to the footpath, which is on unfenced private property.

At its widest, the public right-of-way measures approximately 156 feet. This dimension decreases to as little as 17 feet just before it enters Fisher Park. For most of its length, the public right-of-way is about 24 feet in width. As stated previously, although it is not known definitively, it appears that much of the footpath runs across private property.

The neighbors have stated that they believe the trespassing and criminal activities could be reduced or eliminated by fencing off the tunnel entry to the creek bed. In looking at this idea staff considered the potential for the fencing approach to be effective in addressing the neighbors' concerns and has the following to offer.

Trespassing by Recreational Trail Users – Fencing the tunnel entry to the footpath would have the effect of reducing the number of recreational trail users that would arrive to the area from the east. It would not decrease the number of trail users who might be entering the footpath from Fisher Park, though it might become less attractive for trail use as it would no longer connect to the larger trail system. The neighbors have also proposed fencing access to the creek from the Fisher Park side in order to address the same issue. Staff believes that it would be very difficult to the point of being infeasible to fence access to the west side of the creek and footpath due to the wide open nature of bridge, park entry, creek bed and street at that location.

Reducing Criminal Activity – The entry point location for those individuals who tag or camp within the creek bed area has not been studied in depth and there are, at present, many points of entry to the creek. The Police Department has found that fencing such areas to control criminal activities has not necessarily resulted in the desired outcome. The fencing generally only creates a temporary barrier to those wishing to enter the area and creates an additional impediment to officers patrolling the area, reducing their response time and making it more difficult for them to enter and exit. This same concern holds true for the Fire Department whose firefighters are called upon to extinguish fires that occur within the creek bed. That said, neither the Police Department nor the Fire Department rely upon access to the creek bed area to provide emergency services to the adjacent residents.

Further, fencing either end of the creek creates a dead-end situation, which is never a preferred configuration when there is the chance that people will be entering an area, whether it is on public or private property. This is particularly true at the point where the Class I bicycle path ends. Placing the fence at the tunnel exit could potentially trap those who entered the tunnel from the open portion of the path near the Discovery Science Center. This could potentially be alleviated by completely walling off the tunnel on both sides so that no public access was possible. However, it would still leave an inaccessible tunnel beneath the 5 freeway and could conflict with OCTA's bikeways master plan.

Recommendation

The primary driver of the property owners' request is their concern that a trail has been planned for this area that would require the taking of their property, although they have for many years had concerns about crime and transient activity in the area. As it stands today, neither Santa Ana's nor OCTA's bikeway master plans identify a bike path/lane for the section of Santiago Creek extending west from the 5 Freeway to Jack Fisher Park. (City of Santa Ana General Plan Circulation Element Bikeway Master Plan and 2009 OCTA Commuter Bikeways Strategic Plan) The establishment of any bike trail begins with its identification on a bikeways master plan. The City of Santa Ana and OCTA both have existing bikeways master plans in place that show all current and proposed bike lanes and paths. In short, the City has no plans to construct a bicycle path through this section of Santiago Creek.

The process to amend these master plans requires extensive public involvement and, ultimately, a decision by the City Council. The City Council recently authorized staff to begin the process of updating the City's Circulation Element, including an update to the Bikeway Master Plan. The primary goal of the Circulation Element, and the reason the update was begun, is to comply with the State's "Complete Streets" mandate. Creating Complete Streets requires the City to analyze its existing street network to see how it can be changed to accommodate additional modes of transportation, including pedestrians, transit and bicycles. Increasing mobility and multi-modal use of the City's streets will be the focus of this effort. There is an extensive citizen involvement component to this effort and the input of all members of the community will be reflected in the final Circulation Element.

Staff believes that the best way to address the property owners' and neighbors' concerns about crime, trespassing and graffiti is to actively provide police patrol and graffiti control services within the creek bed area. Staff does not recommend fencing access to the area as it may result in other unintended consequences, such as creating a dead-end trail configuration and limiting access to the Police and Fire Departments, and will not be the most effective way of dealing with the issues raised by the neighbors.

c: Mayor & City Council