SUBJECT: DISCUSSION/DIRECTION – COMMUNITY PARK DOG POND CLOSURE ALTERNATIVES

DATE: JANUARY 21, 2020

PRESENTED BY: NATHAN MOSLEY, DIRECTOR OF PARKS, RECREATION AND OPEN SPACE

SUMMARY:
Community Park was completed and opened to the public in 2006. In order to accommodate the irrigation needs at the park a pond was incorporated into the park design to serve as a holding vessel for reuse water. Since that time the holding vessel has functioned to serve the irrigation needs on the site. Since its inception the pond has also been used by residents and visitors as a place for their dogs to play/engage in the water. This practice has continued until recently.

On September 3, 2019 the Colorado Department of Public Health and Environment (CDPHE) released a draft memo, “RE: Reclaimed Water Impoundments.” The memo required all recreational uses of Reclaimed Water Impoundments (RWI) be discontinued by September 30, 2019. Per CDPHE’s interpretation of the Reclaimed Water Control Regulation (Reg 84), all recreational uses of RWI’s are a violation of the Colorado Water Quality Control Act.

On September 12, City staff met to discuss short-term options that would allow the RWI to be in compliance with the directive from CDPHE. Due to the time of the year and the relatively small amount of water needed to complete the irrigation season, staff closed the dog pond immediately in order to switch the water source from reuse to potable water. Once the water source had been switched, the pond was reopened to dog use.

This provided a short-term fix to allow the dog park to remain open until the winter season when it traditionally closes. This also allowed staff to speak with PPLAB regarding the topic and begin preliminary evaluation of long-term options.

Potential Options
Options related to the dog pond at Community Park include the following:

1. Use potable water to fill the pond and irrigate the park. (This option would allow dogs to use the Pond)
2. Close the pond to use by dogs and provide an alternative water feature within the Dog Park.
3. Close the pond to use by dogs and consider no alternatives at this time.
4. Close the pond to use by dogs and consider future alternatives at other locations.

To clarify, none of the options would impact the dog park itself, only the pond within the boundary of the dog park.
FISCAL IMPACT:
The fiscal impact could range from $0 with option #3 to several hundred thousand dollars over time if other options were chosen. Based on 2019 water use at Community Park the cost to provide potable water would have been approximately $64,000 in that year. Similar fees would be expected in future years.

Costs for installing an alternative water feature start at $12,500 for a basic water feature (i.e. 200 Sq ft basin with fresh water) and would increase based on the nature of the alternatives, additional infrastructure needed, whether it utilizes potable water or utilizes a recirculating system to reuse the water. Based on initial investigations, more elaborate water features could cost $200,000 or more. There would be additional maintenance required to support any new amenities on site and those costs would need to be determined based on the final alternative chosen.

Staff is seeking direction on whether there is support for option #3 or whether City Council would like staff to further investigate potable water usage, alternative water features at the Community Park Dog Park for consideration in the 2021-22 budget cycle, or further alternatives at other locations.

The only option that would allow the pond to be accessible in 2020 would be option #1, use of potable water. Option #2 would require a closure of the pond to dog access while a CIP for an alternative water feature was developed. Option #3 would permanently close the pond to dog access. Option #4 would take a more long-term approach while considering other locations for a dog pond/amenities.

Regardless of the direction given staff will communicate next steps with the community and users of the Dog Park at Community Park.

PROGRAM/SUB-PROGRAM IMPACT:
This discussion is related to the Parks Program/Sub-Program. The Parks Division strives to provide well maintained, popular parks and facilities that provide multiple outdoor opportunities for residents of and visitors to Louisville to enjoy.

RECOMMENDATION:
Staff’s recommendation is option #3 at this time. Based on potential costs, environmental sustainability of water use and research of other dog parks and their amenities closing the pond permanently is the recommended option. Staff recognizes that access to the pond has been appreciated by residents and visitors, but with the recent directive from CDPHE, the cost to provide this amenity as well as environmental sustainability concerns suggest the pond is not in the best interest of the City.

Staff discussed this topic with the Parks and Public Landscaping Advisory Board and they were supportive of option #3.
ATTACHMENT(S):
   1. CDPHE Reclaimed Water Impoundment Memo

STRATEGIC PLAN IMPACT:

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CITY COUNCIL COMMUNICATION
Date

WILL NEED TO BE POPULATED

Company
555 Address St. Apt. 55
Denver, CO 80555

RE: Reclaimed Water Impoundments

**TREATER NAME WILL NEED TO POPULATE**

Dear Reclaimed Water treater Representative,

The Water Quality Control Division is providing this letter to require the above listed authorized reclaimed water treater (the treater) to submit information to the division to demonstrate compliance with the treater Notice of Authorization (NOA) and Reclaimed Water Control Regulation 84, and provide guidance regarding recreational activities that may be occurring in and around reclaimed water impoundments on use sites or within treater distribution systems authorized per an NOA to for reclaimed water under Regulation 84.

Within the last year, the division has identified two reclaimed water impoundments where fishing, with likely fish consumption, was occurring. The Colorado Water Quality Control Commission, through the requirements of Regulation 84, has limited the allowable uses for reclaimed water and required best management practices for the safe use of reclaimed water. None of the approved uses for reclaimed allow for exposure pathways and associated risks similar to what would occur with recreation uses of, or consumption of fish from, reclaimed water impoundments. Additional Water Quality Control Commission regulations identify extensive water quality criteria for the protection of human health associated with recreational uses of surface waters and fish consumption from those waters. The provisions regarding water quality criteria can be found in Regulation 31, Basic Standards and Methodologies for Surface Water. These standards far exceed the limited indicator standards provided for reclaimed water in Regulation 84. Therefore, it is incorrect to assume that because reclaimed water requirements include limitations for E. coli that this water can be considered absent of other pathogens, metals, and organics that can be harmful for human health.

Note that a treater may obtain a CDPS discharge permit to discharge reclaimed water into a surface water of the state, which would result in the receiving pond no longer being a reclaimed water impoundment since the point of compliance would be prior to the discharge. In this case, the CDPS permitting process would include an evaluation of pollutants and the permit would include effluent limits as determined necessary to protect for all designated uses, which may include recreation and fish consumption. If the treater is interested in this option, please contact the division. However, a response to this letter is still required. Current ponds that are filled with effluent discharged through a CDPS permit do not need to include these impoundments in the response to this letter.

Part II.B.2 of your Treater Notice of Authorization (NOA), requires the treater to provide information to the division “to determine compliance with [the] NOA and Regulation 84.” The division is separating this request into two deadlines to provide reasonable time to submit the required information.

For the following requirements, recreation uses of a reclaimed water impoundment include any fishing or uses that would invite non-incidental contact with the reclaimed water by humans or pets, including but not limited to boating, swimming, dog swimming areas, or areas constructed or maintained to promote wading.
1) Notification Regarding Unauthorized Uses - September 30, 2019

84.6(D) requires that "(t)reaters and users planning to use reclaimed water shall have or obtain a NOA from the division prior to any use of reclaimed water." The recreational use of a reclaimed water impoundment would be a "use" subject to this provision of Regulation 84. Since no NOAs have been issued for the use of reclaimed water impoundments for recreation, a treater providing or a user using a reclaimed water impoundment for a recreational use is a violation of Regulation 84 and the Colorado Water Quality Control Act. In addition, Part I.C.1.a.ii of the treater NOA requires the treater to implement oversight "to ensure, to the maximum extent practicable, that users attain and maintain compliance with Regulation 84." All treaters in compliance with their NOA should already be aware of any potential recreational uses of reclaimed water impoundments, whether within their distribution system or at use sites. Therefore, an extended deadline is not be provided for submittal of information regarding any noncompliant use of reclaimed water impoundments for recreation.

No later than October 30, 2019, the treater shall provide to the division, either the information required in (a) or (b), relevant to reclaimed water impoundments located either within the treater distribution system or at a use site for which the treater provides reclaimed water:

a) A notification of any reclaimed water impoundment where information or amenities are being provided to promote or invite a recreational use.
   i) Specifically evaluate and identify:
      (1) is information being provided (signs, internet, etc) that are in evidence at the use site or for which either the user or treater are aware that identifies that the impoundment is available for recreational uses or provide direction for those uses (e.g., rules for fishing, swimming, or boating).
      (2) Are any scheduled fishing events (e.g., fishing derbies) are planned.
      (3) Are any amenities present at the impoundment to encourage recreational uses, including but not limited to: fishing piers, boat rentals, boat ramps/launch areas, or areas maintained for swimming or other access into the water.
   ii) For any impoundment identified per subpart (i), provide:
      (1) The user NOA number for the site with a reclaimed water impoundment, or indicate if it is within the treater distribution system.
      (2) The common name for the impoundment if applicable (e.g., how is the impoundment identified on maps).
      (3) Location of the impoundment (if not identified on a User Plan to Comply)
      (4) A description of the recreational use and the actions implemented or planned to resolve the violation and ensure no recreational uses of the impoundment are ongoing. Include the date(s) the actions have been, or will be completed. Note that any corrective actions to cease the unauthorized use of reclaimed water for recreation must be taken as soon as possible to address the potential human health impacts and noncompliance with the treater NOA and Regulation 84.

   b) A notification that no impoundments requiring identification in accordance with subpart (a) were identified.

2) Inventory of Reclaimed Water Impoundments - April 30, 2020

Complete an inventory of all sites with impoundments filled with reclaimed water to ensure compliance with the Treater NOA and Regulation 84, including the requirement in Part I.C.1.a.ii of the treater NOA requiring oversight to ensure compliance by users. Information must address reclaimed water impoundments located either within the treater’s distribution system or at a use site for which the treater provides reclaimed water. No later than April 30, 2019, the treater shall provide to the division the following information for each location where reclaimed water is present in an impoundment, lake, or otherwise stored in a location that where public access is allowed, including at
golf courses or similar locations where access occurs but is controlled.

a) The user NOA number for the site with a reclaimed water impoundment, or indicate if it is within the treater distribution system.

b) The common name for the impoundment if applicable (e.g., how is the impoundment identified on maps).

c) Location of the impoundment if not identified on a User Plan to Comply (address with narrative description of location, or latitude and longitude).

d) Are there signs located around the impoundment as required by the user NOA and Regulation 84.11(D)(3), includes posting of signs of sufficient size to be clearly read in all use areas; and with appropriate wording in the dominant language(s) expected to be spoken at the site.

e) Potential for Fishing:
   It is not required to answer affirmative to these questions if for carp and minnows, unless the treater or user is aware of fishing occurring.
   i) Are recreational (game) fish present in the impoundment?
   ii) Has the impoundment ever been stocked with recreational fish?
   iii) If recreational fish are still present, what measures are taken by the treater and/or user to prevent fishing? The user and treater must implement measures as necessary to comply with the prohibition against unauthorized uses in Regulation 84. The user and treater are responsible for ensuring that no fishing occurs. Identify the measures that will ensure compliance, including practices to be implemented. The division’s position is that some level of signage informing the public of the prohibition against fishing and recreation would be necessary to meet this requirement if recreational fish are present in a lake with public access. Note that that practices must be documented in the reuse system management plan.

f) Does an outfall exist from the impoundment? If yes, to the knowledge of the treater and user? When was the most recent occurrence that the impoundment discharged via surface flows?

g) Is the impoundment lined? Does the treater or user have any information available regarding if the pond would meet the required maximum seepage rate in regulation 61.14(9) for exclusion from CDPS discharge permitting (seepage from the impoundment does not exceed 1 X 10^-6 cm/sec)? In accordance with Regulation 61.14 (5 CCR 1002-61), a CDPS discharge permit is required for discharges of treated domestic wastewater, including reclaimed water from impoundments. Impoundments do not fall under the discharge permit exemption 61.14(1)(a)(v) for landscape irrigation with reclaimed water. Therefore, a CDPS discharge permit is required for the reclaimed water impoundments located at this site, or a waiver must be issued by the division in accordance with 61.14(9). At this time, the division is providing no deadline for action regarding potential groundwater discharge from reclaimed water impoundments.

h) If additional impoundments with recreational uses are identified during this full inventory that were missed during the reporting required in Part 1 above (Notification Regarding Unauthorized Uses due October 30, 2019); provide the information for that impoundment as required under Part 1.a at this time, along with an explanation of why the information was not provided by October 30, 2019.

The information required above must be provided by the required deadlines, to: Colorado Department of Public Health and Environment, WQCD-CW-B2, 4300 Cherry Creek Drive South, Denver, CO 80246-1530, Attn: Liz Lemonds. If you have any questions, you may contact me at 303-692-3515 or Liz.Lemonds@state.co.us.

Sincerely

Elizabeth Lemonds