

CITY OF TORRANCE

INTEROFFICE COMMUNICATION

DATE: JULY 28, 2011

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: JOHN L. FELLOWS III

CC: CITY MANAGER
COMMUNITY SERVICES DIRECTOR
COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: PLANTING AND DISPLAY OF LIVE CHRISTMAS TREE IN CITY PARK

ISSUES PRESENTED:

1. May the City plant a tree in a City Park to be decorated and lit as a Christmas tree each December?
2. May the City accept donations and subsidies from private parties for the purchase, maintenance and operation of a Christmas tree and its decorations?

SHORT ANSWERS:

1. Yes, the City may plant and display a living Christmas tree in a City park.
2. Yes, the City may accept donations and subsidies from private parties to purchase, maintain and operate a Christmas tree in a City park. From an administrative standpoint, it might be easier for the City to accept cash donations and for the City to purchase, install and maintain a Christmas tree and its decorations.

DISCUSSION:

On several occasions, the United States Supreme Court and other federal courts have reviewed the legality of displaying Christmas trees on public property. Challenges to such displays have generally focused on whether the challenged activity constitutes an impermissible "establishment" of religion, contrary to the dictates of the First Amendment to the United States Constitution.

In the leading case on this subject, the United States Supreme Court held in Lynch v. Donnelly, 465 U.S. 668 (1984), that it is permissible for a city to display many of the figures and decorations traditionally associated with Christmas, including among other things, Christmas trees, Santa-Claus-themed materials, candy-cane decorations and “Season’s Greetings” banners. In Lynch the city erected an annual Christmas display in cooperation with a downtown retail merchants association. The Court held that the display was sponsored by the city to celebrate the Holiday recognized by Congress and national tradition and to depict the origins of that Holiday; these were determined to be legitimate secular purposes. Id. at 679.

Christmas trees have been held not to be religious symbols. “Although Christmas trees once carried religious connotations, today they typify the secular celebration of Christmas. . . . Numerous Americans place Christmas trees in their homes without subscribing to Christian religious beliefs, and when the city’s tree stands alone in front of [a public building], it is not considered an endorsement of Christian faith.” County of Allegheny v. American Civil Liberties Union, 492 U.S. 573, 616-17 (1989).

Displaying a Christmas tree by a city in a public park has been recognized as a permissible holiday display. American Jewish Congress v. City of Beverly Hills, 90 F.3d 379, 380 (9th Cir. 1996)(“City of Beverly Hills traditionally puts up a holiday display of its own, composed of two 35-foot live spruce trees strung with colored lights, and a 60-foot gold-foil ‘Season’s Greetings’ sign’ in a public park”).

Who provides the display does not seem to be a particularly vexing issue. But from the standpoint of administrative convenience, it might be easier for the City to do so than to allow private parties. The City may accept donations to fund the tree and decorations.

Respectfully submitted,



John L. Fellows III