

DATE: September 4, 2017
TO: Hon. Sergio Jimenez, San Jose City Council District 2
FROM: Steven Spivak, District 2 Resident
SUBJECT: Illegal Fireworks Law Enforcement – City Council Meeting September 12, 2017

Dear Sergio:

I am deeply concerned about the continuing incidents of illegal, disruptive and dangerous fireworks in my Blossom Valley and adjoining neighborhoods during the Independence Day holiday and at other times. In 2017, the instances of illegal fireworks explosions in the Cottle/Lean/Beswick area were reduced over that of 2016. Over a period of approximately one week prior to, and also approximately one week after, the Independence Day holiday, I did observe one instance of illegal mortar launches and explosions in my neighborhood. I could hear explosions outside of my area as well. I understand that District 2 areas east of Monterey Road were victimized by explosions equal to or greater in volume than in 2016. In addition, as you know, other areas, especially parts of District 3, experienced especially large numbers of violations that included reported instances of individuals tossing lighted fireworks out of moving vehicles!

I understand and appreciate that the City has improved citizen outreach communications, that greater numbers of citizens are reporting violations with the online reporting tool, and that there has been a demonstrated increase in citations to dealers, buyers and users.

I also understand that the City has collected useful data that shows the locations, or “hot spots” where illegal fireworks are being launched. I believe that this data is the key element for enforcement efforts, and that citizen reports are critical. However, our reporting methodology is problematic and enforcement of fireworks violations is still relatively weak.

As you know, the 2017 administration of online report-based citations was flawed and is reportedly being reworked and the reporting system improved. I feel that the online reporting system, for all its creativity and promise, *is destined to fail in court for the following reasons*. If the measure of proof rests on photographic evidence, then photos will have to show not only the explosion itself, but also street location and point-of-origin/launch. Otherwise, the existence of a photo showing an explosion is of no use. In addition, nighttime photography is a tremendous challenge even for professional photographers.

At the same time, there are neighborhoods with numerous fireworks explosions in District 2 in which citizens did not report at all, possibly for fear of retaliation from neighborhood violators.

With the greatest possible respect for all efforts to-date, I feel that a much more extensive and aggressive effort is needed. Improvements needed include street patrols within certain Council District areas identified as “hot spots,” disrupting fireworks supplies, continued public communications, clearer online reporting instructions and improved technology, and a much greater involvement of neighborhood associations in the enforcement planning process. Even with our depleted police resources, it should be feasible to deploy enforcement personnel, even if only on a limited basis. With this in mind, it would benefit us to implement the following:

1. Direct Witnessing/Enforcement: Deploy non-SJPD employees or CSOs during the Independence Day holiday period to cruise neighborhoods identified previously as “hot spots” by neighbors and previous online reporting data. These employees will use the

online system to report the addresses of violators. They will be empowered to “witness” violations WITHOUT the use of photos or videos. They will not interact with violators at all. However, they will operate under SJPD/SJFD supervision. They will also report fireworks “block parties,” fireworks park disturbances, etc. directly to SJPD. Reporting employees can testify in hearings or in court.

2. Supply: City of San Jose (CSJ) should request that Craigslist enforce its own guidelines and automatically remove any advertisements offering fireworks for sale. (I understand that a preliminary contact was made this year but I am not aware of results or follow-up.). If Craigslist fails to implement this request, launch a software package that automatically flags fireworks advertisements. Otherwise, SJPD should enforce the law by monitoring these advertisements, citing violators and confiscating supplies.
3. Communications: A. CSJ should copy all active San Jose Council district neighborhood associations, the San Jose Neighborhoods Commission and United Neighborhoods of Santa Clara County with anti-fireworks information, enlisting association leadership cooperation in distributing anti-fireworks communications. B. CSJ should undertake the use of direct mail and also the cellular, VOIP and hardwired telephone networks to ensure that the fireworks enforcement message is communicated multiple times to every single household in CSJ. C. Citizens who wish to remain anonymous should be encouraged to report violations using Crime Stoppers, 311 or to report violators’ addresses to their local neighborhood association.
4. Reporting of Violations: A. CSJ should add an information page to the online form that clearly describes how the reporting system works; it should explain that no officer will be dispatched; it should point out that photo or video evidence MUST be attached in order for a citation to be issued, that failure to submit such evidence will result in a warning only being issued to the alleged violator. Clarify what constitutes “sufficient evidence” to justify a citation from Code Enforcement. Citizens’ photos and videos, taken in the dark, are not likely to be of sufficient quality to clearly identify a fireworks explosion at a specific address. B. Create an app for fireworks reporting on iOS and Android devices (My San Jose?). Copy the link to this app to SJPD, San Jose Fire and other COSJ Web and social media sites.
5. Establish a citizens’ component in the enforcement planning process. This should result in easier data gathering of “hot spot” information for SJPD/SJ Fire/PBCE.
6. Increase fines for first offense to \$1,000.

Respectfully submitted,

Steven G. Spivak

CC:

Hon. Sam Liccardo, Mayor
Hon. Charles “Chappie” Jones, District 1
Hon. Raul Peralez, District 3
Hon. Lan Diep, District 4
Hon. Magdalena Carrasco, Vice Mayor
Hon. Devora “Dev” Davis, District 6

Hon. Tam Nguyen, District 7
Hon. Sylvia Arenas, District 8
Hon. Donald Rocha, District 9
Hon. Johnny Khamis, District 10
District 2 Neighborhood Leadership Council
District 2 Neighborhoods Commissioners