

DATE: August 12, 2019  
TO: Hon. Raul Peralez, Chairman  
Public Safety, Finance and Strategic Support Committee  
City of San Jose  
FROM: Steven G. Spivak, resident of San Jose District 2  
RE: Unacceptable lack of fireworks ordinance enforcement

Dear Chairman Peralez:

I write to express my deep disappointment with the City of San Jose. While created with good intent, after over 30 years of failing to deal meaningfully with enforcement, the City's response to fireworks ordinance violations in 2019 remains weak, with its focus on education and not on enforcement. Although there have been some good ideas implemented such as the public fireworks display at Almaden Lake, our neighborhoods continue to suffer explosive attacks. For example, resident reports, documented by video in D3's Roosevelt Park, TV news reports from Alviso and, of course, the thousands of online and telephone reports all document how blatant are the violations and how meager the response. The overall lack of results, in terms of either numbers of citations issued, fines or jail time imposed, or any meaningful or effective physical law enforcement response, constitutes a completely unacceptable situation in this city.

In addition to the City's failure to enforce the fireworks law, San Jose's public communications have, at times, also served not only to force San Jose residents who wish to report fireworks crimes into the position of crime scene investigators, blaming resident reporters for the City's lack of response on shortcomings in their reports, but also to encourage fireworks ordinance violators with at least one televised official public announcement to the effect that fireworks violations would only be enforced "when it is safe." The effect of such official miscommunications is to not only discourage resident reporting but also to encourage those intent upon breaking the law to do so with impunity, knowing that no law enforcement personnel would interfere. This miscommunication, too, is completely unacceptable.

We know, from observing neighborhoods from Mt. Hamilton's height on a typical July 4th, that fireworks violations occur from one end of town to the other, creating an out-of-control situation challenging even a full complement of law enforcement staff. With the existing understaffed police department, there appears to be no way to summon a police officer for neighborhood fireworks violations.

We also know, that after three years comprising nearly 6,500 online resident fireworks reports, and over 1,400 telephone reports (not including dropped calls due to busy lines), despite calls and letters from residents and repeated urgent requests from the Neighborhoods Commission calling for enforcement action, we have seen hardly any response. San Jose has issued a total of 27 citations for July 4<sup>th</sup> fireworks ordinance violations. For the July 4, 2019 holiday, a total of 7 citations have been issued, but only one is reported as law enforcement field citation. We do not know how many citations resulted in fines or jail time.

Fireworks explosions in our neighborhoods are not a low priority. The explosions are disruptive to neighborhood peace and quiet, dangerous and even life threatening to our loved ones with PTSD, pets and children, and potentially damaging to our homes, businesses and property.

The fireworks problem peaks at known times of the year. Law enforcement should prepare for these known times and plan to address the problem. **Instead, it is apparent to many of us that the residents of San Jose have largely been left to fend for ourselves.**

The City of San Jose's primary method to deal with illegal fireworks violations, the online reporting tool, after three years of use, can only be described as a waste of reporters' time. The form requires photographic evidence that may prove hard to obtain; it forces residents into potentially unsafe confrontations with neighbors. With so few results, use of the form is only contributing to residents' frustration and lack of faith in the City's willingness to protect them. Other and better online reporting engines exist for us to use.

We understand that this city's police force may not have sufficient numbers of officers for a city of our size. That explains the lack of fireworks ordinance enforcement ***but it most emphatically does not excuse it.*** *There is no reason why the City could not fund a robust enforcement program, starting on a small scale if necessary, in neighborhoods with the highest numbers of fireworks ordinance violation complaints.*

The Committee and Council must stand firm and exert full influence on the police department to initiate a robust fireworks ordinance enforcement program; and to fund these endeavors with the understanding that failure to do so is not an option. With this in mind, please consider the following steps:

1. Commit to field enforcement as a first priority; and
2. Select a manageable area to begin the enforcement program such as Roosevelt Park or portions of Alviso; and
3. Determine the cost to patrol, D3's Stop Illegal Fireworks in San Jose Committee has already researched and documented the cost of a July 4<sup>th</sup> patrol; and
4. Boost first-time offense fine to \$1,000.
5. Contact all residents in the selected area (s) with notification of police patrols on July 4<sup>th</sup>; and
6. Coordinate communications to reinforce the enforcement function with warnings; avoid encouraging delinquency; and
7. Vigorously publicize enforcement activity as well as violator arrests, convictions, jail time and fines; and
8. Add additional public fireworks display(s) in such places as Hellyer County Park and/or other affected Council districts;
9. For the future, consider the free "Nail 'Em" app that enables real time GPS location reporting and direct PD response.

The institution of an enforcement program may start relatively small. However, once it becomes known that law enforcement is out and about, that violators actually do face stiff fines and/or jail time, the word will spread.

We cannot and will not accept continuing and uncontrolled instances of annoying, dangerous and illegal fireworks in our neighborhoods. We are counting on you to take action.

Sincerely,

Steven G. Spivak

cc:

Hon. Sergio Jimenez

Hon. Magdalena Carrasco

Hon. Chappie Jones

Hon. Sylvia Arenas

Jennifer Maguire, COSJ

**From:** Steve Spivak  
**Sent:** Thursday, September 26, 2019 4:34 PM  
**To:** City Clerk  
**Subject:** Fwd: DISAPPOINTED -- Fireworks Ordinance Workplan Status Report Supplemental Memorandum

**[PLEASE INCLUDE IN COUNCIL MEETING AGENDA 10/1/19 UNDER ITEM 8 "LETTERS FROM THE PUBLIC".]**

**DATE:** September 26, 2019  
**TO:** Hon. Raul Peralez, Chairman, PSFSS Committee;  
Members, San Jose City Council  
**SUBJECT:** Supplemental memorandum dtd. 9/24/19 Fireworks Ordinance Workplan Status Report

I write to express continued disappointment at the lack of commitment to enforce the fireworks ordinances in this city. With the greatest respect for the San Jose Police Department, I find that the "Deployment Plan and Enforcement" section, proposing a pilot program of field enforcement, is predicated upon the participation of SJPD "volunteers." This proposal is problematic from the get-go. As noted in the memorandum, it "has been challenging" for the department to assign officers to enforce the fireworks ordinances. A total of two departmental "volunteers" were available in 2019.

Reading the supplemental memorandum very closely, one can only assume that: any fireworks ordinance field enforcement program in this city on July 4<sup>th</sup> is entirely dependent upon the willingness of off-duty police officers to "volunteer," that volunteers are unlikely to step forward in sufficient numbers to make field enforcement practicable; that "possibly incentivizing the program" will attract more volunteers. The fact is that the entire proposed San Jose fireworks ordinance field enforcement pilot is contingent upon whether "sufficient officers have volunteered for the overtime assignment." With respect, this is not a real commitment. Since when does law enforcement depend on a volunteer force? San Jose does not have a "volunteer" police department.

If SJPD is going to organize a successful field enforcement pilot project, they must be able to assign sufficient officers, cancelling or substituting holiday time off as appropriate.

Until the City of San Jose makes a real commitment to direct field enforcement of the fireworks ordinances, we in the neighborhoods will continue to have to fend for ourselves in the face of dangerous, annoying and illegal fireworks explosions.

July 4th is no holiday for fireworks ordinance violators; it should not be a holiday for law enforcement.

I urge you to exercise your full influence on the police department to revise the current proposal with a real and unqualified commitment to make it work. We look forward to supporting you and SJPD in this effort.

Sincerely,

SGS

Steven Spivak  
District 2

cc:

Hon. Sam Liccardo, Mayor  
Hon. Charles "Chappie" Jones, Dist. 1  
Hon. Sergio Jimenez, Dist. 2

Hon. Lan Diep, Dist. 4

Hon. Magdalena Carrasco, Dist. 5

Hon. Devora Davis, Dist. 6

Hon. Maya Esparza, Dist. 7

Hon. Sylvia Arenas, Dist. 8

Hon. Pam Foley, Dist. 9

Hon. Johnny Khamis, Dist. 10

**From:** Steven Spivak

**Date:** October 2, 2019

**To:** Hon. Mayor and Councilmembers

**Subject: Illegal fireworks field enforcement: materials from other jurisdictions**

I am copying you with successful examples of police field enforcement in several communities. I urge you to read, or to have the appropriate staff person read this information and review the attached video. It is animating to realize what these nearby cities have accomplished, and demonstrated, in short order, and what we with all available technology, in several years of attempts, have not.

In addition, the use of the so-called "Nail 'Em" app is mentioned. This free-of-charge application, easily installed on your (and the PD's) handheld device, is much simpler, more powerful and much more useful to law enforcement than COSJ's reporting tool. It is, and should be, the subject of a separate discussion.

I realize, of course, that you have many other items on your plate besides illegal fireworks. However, the attached examples reveal a fairly simple series of solutions that you will immediately appreciate.

An effective start to solving the fireworks problem is within our reach IF WE CAN GET BOOTS ON THE GROUND and augment our PD's own experience with the effective examples of law enforcement elsewhere as shown below. Let's go for it!

Regards,

Steven Spivak

District 2

Begin forwarded items:

Rohnert Park community's newspaper article: [<http://www.thecommunityvoice.com/article/Warnings-werent-enough> ]

See the video: [[http://rpcity.granicus.com/MediaPlayer.php?view\\_id=4&clip\\_id=1146](http://rpcity.granicus.com/MediaPlayer.php?view_id=4&clip_id=1146) ] (after opening the video click on Agenda Item 4B) of the Rohnert Park City Council meeting for Tuesday, July 9, 2019.

More positive local news coverage on the successful effort to combat illegal fireworks in Rohnert Park, CA.

<http://www.thecommunityvoice.com/article/Successful-approach-to-fireworks-in-RP>

Rohnert Park keeps heaping praise on Nail'em.

<http://www.thecommunityvoice.com/column/Fireworks-program-is-safe-and-sane/>

Here is the staff report from the City of Seaside for 2018, the first year of their drone program as well as one of the most comprehensive staff reports ever from the Police Chief for the City of Pacifica just last Monday.

Here the article that appeared recently in Ceres.

<https://www.cerescourier.com/news/local/six-lose-illegal-fireworks-citation-appeal/>



**CITY OF SEASIDE  
STAFF REPORT**

Item No.: 7.F.

**TO:** City Council

**FROM:** Craig Malin, City Manager

**BY:** Abdul Pridgen, Police Chief  
Judy Veloz, Deputy Chief  
Dan Meewis, Recreation Superintendent

**DATE:** September 6, 2018

**SUBJECT: FOURTH OF JULY JOINT PUBLIC SAFETY AFTER  
ACTION FIREWORKS REPORT**

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**PURPOSE & RECOMMENDATION**

The purpose of this item is to provide City Council with a detailed report of the fireworks operation/event from July 4, 2018.

**BACKGROUND**

**BACKGROUND**

The Seaside Police Department, in partnership with the Seaside Fire Department, formulated an operations plan for illegal firework suppression beginning in May and continuing through July of 2018. The operations plan included an enforcement plan, and an extensive public outreach campaign developed with the assistance of the City Clerk's Office. The following report serves as an After Action Report regarding 2018 fireworks activity. Included in this report is an accounting of surcharge funds collected and expenditures by each department. Also included in this report is an accounting of expenditures for the City Sponsored Community Fireworks Event.

**FIRE DEPARTMENT**

Safe and Sane fireworks went on sale on July 28th and concluded July 5th; all fireworks booths were inspected by the Fire Department and periodically checked for compliance throughout the week; all remained in compliance and no violations were issued. During the period Safe and Sane fireworks were on sale, the fire department responded on 70 calls for service.

On the Fourth of July the fire department staffed two additional engine companies for twenty-four hours, one for illegal fireworks enforcement and the other for the fireworks show. In addition, two of our Unmanned Aerial Vehicle pilots worked with police officers to issue citations for those using illegal fireworks. One Division Chief was assigned as incident

commander at the fireworks show command post. The department responded on 5 calls for service on July 4th with 2 fire calls related to fireworks activity, both were dumpster/trash fires; there were no structure fires in Seaside on the 4th of July or the days surrounding the 4th.

Year	Calls For Service June 28 <sup>th</sup> - July 5
2016	59
2017	67
2018	70

**PUBLIC WORKS**

Thursday July 5th, three Public Works staff reported to work at 4:00 am on overtime to clean the Laguna Grande Parking Authority Lot prior to the businesses opening and also cleaned around Robert's Lake and Laguna Grande Park before kids arrived to play at the park. During the nine-hour work day, four staff continued cleaning the City street-by-street of any fireworks not disposed of on the 4th by residents. The Sweeper Operator spent the day spot cleaning around the city with the street sweeper.

**POLICE DEPARTMENT**

As in years past, the City of Seaside authorized legal "Safe and Sane" fireworks to be used within the city limits. Illegal fireworks were and have always been prohibited. Each year the City of Seaside experiences a high volume of illegal firework activity that is widely spread throughout the entire city.

This year the police department implemented enforcement tactics which had not been used in previous years. This included officers using drones to obtain drone video of firework violations, and the issuance of administrative citations in accordance with Seaside City Ordinance 8.32.190. Additionally the administrative fine was increased by the Seaside City Council on February 1, 2018 from \$1000.00 to \$2500.00.

In May, City staff distributed flyers, door hangers, mailers and posters warning of the consequences for the possession or use of illegal fireworks. This information was sent via mail to all residents, distributed to businesses, neighborhood and business watch groups, and added to the City's website. Also posted on the City's website was information about the use of drones for illegal firework enforcement, and the crime tip website which was available for the public to report illegal firework related information. Additionally, a letter was mailed to Seaside property owners warning that per Seaside City Ordinance 8.32.190, strict civil liability would be imposed on owners for dangerous firework violations occurring on their residential real property.

During the last week of the school year, the School Resource Officer gave educational presentations to students on safe practices for using safe and sane fireworks, the consequences for using illegal fireworks, and how to report information to the police about illegal fireworks.

On June 20, 2018 Public Works placed electric sign boards at Fremont Blvd. at Kimball Ave., Canyon Del Rey Blvd. at Del Monte Blvd., and LaSalle Ave. at Fremont Blvd. The signs warned of \$2,500 fines for illegal firework possession, drone enforcement, and undercover officers.

From June 29, 2018 through July 5th, 2018 the Police Department implemented special enforcement teams on an overtime basis to patrol and enforce laws regarding the use of illegal fireworks. Also during this time period non-sworn police department staff responded to firework related tips on the crime tip website.

All police department staff was required to be on duty on July 4th from 4:00 p.m. to midnight. The illegal firework activity diminished significantly after about 11:15 p.m. Several officers worked past midnight to continue monitoring illegal firework activity. Firework enforcement teams were required to:

- Respond to reports of illegal fireworks
- Provide close patrol of areas known for illegal firework detonations
- Issue administrative and criminal citations to identified individuals who possessed or used illegal fireworks
- Confiscate illegal fireworks
- Contact the Reporting Party whenever possible
- Dispatched calls for service during the operation 167
- Arrested 0
- Administrative Citations: 26
- Criminal Citations: 0
- Fireworks collected as evidence: 16
- Fireworks confiscated: Approx. 80 lbs.
- Calls For Service:

A comparison of all firework CFS for 2015, 2016 and 2018 (2017 not available):

Fireworks CFS*	2015	2016	2018
July 2nd	17	18	10
July 3rd	24	15	16
July 4th	92	134	167
July 5th	23	20	24

On July 4, 2018 twenty six administrative citations were issued. Four of the citations were the result of evidence from drone video. Administrative Appeal Hearings will be held in September.

**RECREATION DEPARTMENT**

The Recreation Department started the planning process for the 2018 Red, White, & Blues 4th of July community event in the summer of 2017. This event required extensive planning, as it was the first time the City held an event of this magnitude. It required forming a special committee of city staff that included liaisons from each department. There was also coordination from multiple outside agencies such as: The Bayonet Blackhorse Golf Course, Monterey County Sheriff Office, California Highway Patrol, and The Presidio of Monterey Police Department.

The event required a lot of help from Public Works and Recreation staff about a week before the event which included: Site prep, equipment drop off, and staging of equipment and activities. The day of the event Recreation Staff arrived at the Golf Course at 6am to start with the set up



plan, and were followed by Public Works staff at 7am. Over the course of the morning staff arrived in shifts to assist with the massive set up.

The event which was open to the public from 4pm-10pm featured live music from Tommy Castro and the Pain Killers & Kaye Bohler. There was also a variety of family friendly activities that included carnival games, bounce houses, rock wall, petting zoo & pony rides, face painting, and other activities. There were also 22 vendors that sold food, crafts, or provided information about their local organizations. The event concluded with a professional 25 minute sky concert fireworks show that was put on by “Pyro Spectacular”.

Once the event concluded at 10pm Public Works & Recreation staff worked diligently to make sure all aspect of the event were removed from the premises, so the golf course could re-open the following day with no loss of time. Both teams of employees worked extremely hard through the night, and completed the event clean up at about 1am on July 5th.

Although the event was a success, there are some areas of improvement. It is recommend that if the City decides to hold another event that the following areas be addressed:

1. Parking and Traffic control (Possible fee for parking)
2. Increase the number of public restrooms
3. Solicit and obtain more food vendors (Increase vendor fee for this event)
4. Invite representatives from CSUMB to be a part of the planning process

**FISCAL IMPACT**

The below table depicts the following:

- Gross retail sales of Safe and Sane fireworks within the City and prior year comparisons
- Fireworks Surcharge of 7% (in accordance with the City of Seaside Municipal Code Chapter 8.32)
- Permit application fees
- Revenue received by the City of Seaside from the sale of Safe and Sane fireworks

**The following expenses were incurred for the Illegal Firework Enforcement Operation:**

Police Department:\$18,018.65 (Overtime)  
“ “\$585.35 (Rental cars for undercover use)  
Fire Department: \$2,352.96(Overtime)  
Fire Department: \$3,784.30(Additional Engine Company)  
Resource Management:\$3,798.00 (Overtime + Equipment)  
**Illegal Firework Enforcement \$28,539.26**

The following expenses were incurred for the City Sponsored Community Firework Event:

Monterey County Sheriff\$15,732.38  
California Highway Patrol\$5,212.80

Fire Department\$8,842.55  
Resource Management\$10,900.51  
Recreation Department\$13,822.64 Staff  
Recreation Department \$57,539.77 Services and Supplies  
**Total Cost Firework Community Event \$112,050.65**

2018 Fireworks Administrative Fines: \$10,000.00 (Collected as of 8/30/2018)

2018 Fireworks Revenue:\$15,917.91 (Surcharge only)  
2018 Event Vendor Revenue:\$1,288.50  
**2018 Total Revenue:\$27,206.41**

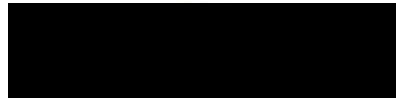
**Net Cost to the General Fund \$113,383.50**

**ATTACHMENTS**

None

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Reviewed for Submission to the  
City Council by:



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Craig Malin, City Manager



**CITY OF PACIFICA  
COUNCIL AGENDA SUMMARY REPORT**

**9/23/2019**

**SUBJECT:**

Report on July 4th Activities / Safe and Sane Fireworks Study Session

**RECOMMENDED ACTION:**

Accept the 2019 July 4<sup>th</sup> Activities Report and discuss the Safe and Sane fireworks program.

**STAFF CONTACT:**

Daniel Steidle, Chief of Police  
650-738-7314  
steidled@pacificapolice.org

**BACKGROUND/DISCUSSION:**

**July 4, 2019 REPORT**

Each year, the July 4th holiday brings visitors and residents alike out to enjoy local festivities and scenic beaches. Community members participate in community events, followed by Safe and Sane Fireworks in the evening hours. While a holiday for most, City of Pacifica staff must work to coordinate community events, clean and stock beach facilities, and provide public safety. Illegal fireworks are a problem in the evening hours, causing the need for increased police and fire department presence. City departments collaborated this year, as in past years, to assure a safe and enjoyable July 4<sup>th</sup> holiday for community members and visitors.

**Illegal Fireworks**

Illegal fireworks have long been a problem not only in Pacifica, but throughout the State. The police department continued a campaign in 2019 to educate the community regarding the enforcement efforts and dangers related to illegal fireworks.

In the days leading to the July 4th holiday, Police Department personnel erected a lighted sign board on State Route One with a message reminding citizens that illegal fireworks are not allowed in Pacifica, and of the potential for a \$1,000 fine for violations. In addition, posters were distributed within the City educating community members regarding the Illegal Fireworks Social Host Ordinance, with the theme of "Host a Show, Pay the Dough." This information was followed up by press releases issued to local print and web-based media, as well as highlighted in Connect with Pacifica weekly newsletters. In addition, anti-litter posters were distributed to local businesses with the intention of keeping Pacifica clean, not only during the July 4<sup>th</sup> holiday, but year-round.

**Safe and Sane Fireworks**

This year, (11) non-profit groups received permits to sell Safe and Sane Fireworks. The groups attended a pre-sales informational event hosted by the Pacifica Police Department and North County Fire Authority. Fireworks booths were erected and inspected by a Fire Inspector before

sales could commence. Fireworks sales went well this year without any problems being reported to police or fire departments.

The fireworks sales season ends with mandatory beach clean-up efforts. Hosted by the Pacifica Beach Coalition and assisted by Department of Public Works staff, non-profit groups report to beach locations in Pacifica to assist with clean-up efforts. Each group works at least (10) hours on July 5<sup>th</sup>, then are required to provide at least (10) additional hours of clean-up on an assigned Saturday in July and August.

The below table indicates the number of hours of clean-up worked by each group. The total hours worked this year was 441.75, which is the highest amount of hours worked since the inception of the beach clean-up portion of this program.

Group	Hours (20 required)
American Legion Auxiliary	38
Pacifica Moose Lodge	33
Pacifica Girls Softball	20
Pacifica Tigersharks	80
Pacifica United Soccer Club	92
Pacifica Youth Baseball	21.25
Terra Nova High Boosters Club	33.5
Terra Nova High School Football	27
Bay Area Youth Baseball	44
Oceana High Athletics	24.5
Pacifica Youth Group	28.5

### Enforcement

The July 4<sup>th</sup> holiday this year proved to be another busy day for the police department. As has been the long-standing policy, all days off were cancelled, with all sworn police personnel working at some point during the day. Police staffing was augmented by (6) officers total from Broadmoor, Colma, and South San Francisco Police Departments. In past years, staff has been augmented by up to (10) additional officers. This was not possible this year due to staffing shortages experienced by many local police departments. There were (2) Police Records employees working in the police department front office, handling non-emergency telephone calls. This is a change from past practice, and allowed police dispatchers to focus on emergency calls for service and officer radio traffic.

Calls for service related to fireworks were near average in comparison to recent years, with most calls occurring between 5 pm and Midnight. Total calls for service for the entire day (all call types) were the same as in 2018. Non-fireworks related calls for service appeared to be the type of calls the Police Department would receive on any given day, and likely increased as the community was active during the holiday.

Year	Fireworks Calls (All Day)	Fireworks Calls (5pm-Midnight)	Total Calls All Call Types (All Day)	Admin Cites Issued
2018	119	110	229	12
2019	108	95	229	20

This year, (20) administrative citations were issued for possession or discharge of illegal fireworks. Of those citations, (4) were for social host violations. Of the (20) administrative citations issued to violators, (12) were issued to violators who do not live in Pacifica. One of these citations was issued on July 3rd. To date, (10) violators have paid the full \$1,000 fine, while (10) have not paid. Those fines that have not been paid have been sent to a collection agency.

Overall, illegal firework activity remained on par with recent years. As was the case in 2018, some neighborhoods appeared to have less activity than in previous years. However, activity in other neighborhoods appeared to increase.

Officers dealing with fireworks violators report the usual attitude of "It's just fireworks, we do it every year." Pre-July 4<sup>th</sup> social media activity reflected frustration from community members regarding illegal fireworks usage, while many postings echoed the same attitude officers heard on the evening of July 4<sup>th</sup> from violators.

### **North County Fire Authority**

The North County Fire Authority response to July 4<sup>th</sup> festivities included proactive community outreach, as well as augmented staffing on July 4<sup>th</sup>. During community outreach, special emphasis was placed on warning the public of the dangers associated with the use of fireworks. The public was encouraged to attend professional fireworks displays and refrain from using illegal fireworks.

The following is a list of public education and community outreach activities:

- Provided residence and local news outlets information through social media on the potential dangers of fireworks.
- Patrolled all areas with fire companies, stopping and interacting with the public and discussing fire safety and the penalties associated with use of illegal fireworks.
- Posted safety information regarding Fourth of July on NCFA website and through social media.
- Interacted with the public on fireworks and fire safety topics and advised where on beaches fireworks were allowed and not allowed in City of Pacifica.
- Reviewed and approved permits for all fireworks stands (City of Pacifica).
- Conducted safety and fire code compliance inspections of each firework stand permitted within the City of Pacifica.
- Provided fireworks safety information to the public.

On July 4<sup>th</sup>, the North County Fire Authority augmented staffing in Pacifica by adding (2) additional fire companies to prepare for the potential of additional emergency incidents associated with the use of illegal and legal fireworks.

In Pacifica between 8 am on July 4<sup>th</sup> and 8 am on July 5<sup>th</sup>, the North County Fire Authority responded to three (3) debris fires and one (1) small vegetation fire related to fireworks. There were no structure fires or injuries reported.

### **Public Works**

On July 4<sup>th</sup>, the Department of Public Works was very instrumental in the set-up of the police command center at the State Beach Parking Lot, as well as establishing the areas along the beach and the parking lot designated for discharging safe and sane fireworks. Public Works staff made sure that ample amount of trash receptacles were in place and well maintained. They

also coordinated and assisted with the clean-up efforts. These tasks are critical in assuring our community members and visitors a safe and memorable experience in our City.

### **Parks, Beaches and Recreation**

The Parks, Beaches and Recreation Department held the annual Rocket Run, a five-mile race that occurs at 9 am. Also of note, the annual July 4<sup>th</sup> celebration was held at Frontierland Park. This family-oriented event offered food, crafts, games and other events to celebrate the holiday.

### **Costs**

The City response to July 4<sup>th</sup> activities requires augmented staffing and overtime expenditures. The 8% safety fee on Safe and Sane Fireworks sales serves to recover the costs of these City services. The below table reflects the 2019 City expenditures as well as 8% safety fee revenue.

	<b>2019</b>
<b>Police</b>	\$12,054
<b>Fire</b>	\$14,441
<b>Public Works</b>	\$6,229
<b>Total</b>	\$32,724
<b>8% Safety Fee</b>	<b>\$33,118</b>

### **Conclusion:**

The July 4<sup>th</sup> holiday was enjoyed by community members and visitors alike. There were no major police or fire related events. Illegal fireworks continue to be a problem for Pacifica, as well as in many Bay Area communities. Staff will continue to work to educate the community regarding the use of illegal fireworks, as well as target problem neighborhoods for enforcement. With community education tools and targeted enforcement procedures in place, staff will continue to work in 2020 and beyond to impact the use of illegal fireworks in Pacifica.

### **SAFE AND SANE FIREWORKS PROGRAM**

After the 2018 July 4<sup>th</sup> celebration, community concerns continued regarding the use of illegal fireworks, in addition to some community concerns about the Safe and Sane fireworks program. The City Council discussed this issue at the 2019-2020 goal setting session, resulting in the direction to bring this issue back to City Council in the form of a study session.

The history of the fireworks sales program in Pacifica dates back to March 1961, when City Council adopted Ordinance No. 167, regulating the sales of fireworks. Unlike the current 8-page ordinance, the 1961 ordinance was a 3-page product that addressed the basics of the permit application process, fire safety, and permitted hours of operation. As is the case today, the ordinance specified local non-profit groups as eligible to obtain a fireworks permit.

### **Permitting Process**

Non-profit groups desiring to obtain a fireworks permit to sell Safe and Sane fireworks must complete a permit application to the City's Finance Department after the first Monday of January and before the first Monday of February. The maximum number of permits that can be issued is

15. Once a permit has been granted, permit holders proceed with the fireworks program as follows:

- Pay permit fee by March 31<sup>st</sup>
- Attend a pre-sales meeting with Police Department and North County Fire Authority personnel to discuss applicable municipal codes and fire inspection details
- Complete fire inspection and begin sales no sooner than June 5<sup>th</sup> at 12 noon
- Fireworks sales end on July 4<sup>th</sup> at 10 pm
- Non-profit groups complete no fewer than 20 hours of scheduled beach clean-up in conjunction with the Pacific Beach Coalition
- Fee of 8% of gross receipts due to Finance Department by September 1st

### Financial Overview

The 8% fee on gross receipts charged to fireworks permit holders is in place to off-set the costs of City expenditures for July 4<sup>th</sup> activities. City costs are driven by personnel overtime from Police, Fire and Public Works departments. The following table depicts City costs for July 4<sup>th</sup> activities compared to the 8% fee in recent years:

	2014	2015	2016	2017	2018	2019	Cumulative
Police	\$ 14,500	\$ 13,998	\$ 12,100	\$ 11,694	\$ 13,311	\$ 12,054	
Fire	\$ 10,956	\$ 11,809	\$ 12,648	\$ 14,731	\$ 14,282	\$ 14,441	
Public Works	\$ 8,079	\$ 9,081	\$ 9,767	\$ 10,188	\$ 9,182	\$ 6,229	
<b>Total</b>	<b>\$ 33,535</b>	<b>\$ 34,888</b>	<b>\$ 34,515</b>	<b>\$ 36,613</b>	<b>\$ 36,775</b>	<b>\$ 32,724</b>	<b>\$ 209,050</b>
<b>8% Fee</b>	<b>\$ 32,680</b>	<b>\$ 33,141</b>	<b>\$ 34,073</b>	<b>\$ 32,077</b>	<b>\$ 32,430</b>	<b>\$ 33,118</b>	<b>\$ 197,519</b>

In most years, the City comes close to covering reported costs with the 8% fee.

### History of Community Discussion and Past Ballot Measures

There is a history of discussion regarding whether or not to continue with the Safe and Sane fireworks program in Pacifica. Advisory ballot measures were placed on the ballot addressing this question in 1983 and 1996.

In November 1983, Measure I was placed on the ballot with the following language:

*“Shall the City of Pacifica adopt an ordinance amending its Municipal Code to prohibit the sale and use of all fireworks in the City of Pacifica in accordance with the provisions of the 1982 Uniform Fire Code?”*

Voters expressed majority support to continue the program with 38% (1,587 voters) voting to end the program and 62% (2,641 voters) voting to continue fireworks sales.

In November 1996, Measure W was placed on the ballot with the following language:

*“Shall the City of Pacifica amend its Municipal Code to prohibit the sale and use of State-approved fireworks in the City of Pacifica?”*

Voters expressed majority support for the fireworks program with 30% (4,582 voters) voting to end the program and 70% (10,744 voters) voting to continue fireworks sales.

In recent years the discussion has continued, prompted by community complaints regarding the magnitude of illegal fireworks around the July 4<sup>th</sup> holiday, as well as environmental concerns due to litter left behind by both illegal and Safe and Sane fireworks. Environmental concerns

are also raised due to concerns of fireworks debris reaching the ocean. Community concerns have also included the risk of fire with the use of all types of fireworks. In recent years, wildfires in Northern California have increased the discussion of fire risk. The most common complaint from community members is the loud noise generated by illegal fireworks. Large scale firecracker type devices as well as mortar type fireworks that create colorful displays in the sky are commonly used in Pacifica on July 4<sup>th</sup> and produce loud noise.

Safe and Sane fireworks are those fireworks approved by the State Fire Marshal. These types are easily identified by the State Fire Marshall stamp on the packaging. Safe and Sane fireworks do not fly through the air, nor do they explode. Any firework device producing a loud “bang” sound is illegal. All fireworks other than Safe and Sane variety are illegal to possess and discharge under State law and the Pacifica Municipal code.

### **History of Task Forces**

There have been 3 task forces formed at the direction of City Council since 2008 to address fireworks issues. A Task Force in 2008 dealt with both the use of illegal and Safe and Sane fireworks. In 2013, a Task Force addressed issues relating to Safe and Sane fireworks, concentrating on environmental issues. In 2017, an Illegal Fireworks Task Force was formed to specifically address concerns related to illegal fireworks. The following is a summary of the work and outcome of each Task Force.

#### *2008 Task Force*

On November 26, 2007, City Council adopted a resolution creating a Fireworks Task Force and appointing members. The Task Force, led by then Police Chief Jim Saunders, was created to address increasing problems with illegal fireworks use in Pacifica. The work of the Task Force resulted in the adoption of a revised fireworks ordinance (Article 2 Chapter 3 of Title 4 of the Pacifica Municipal Code). The ordinance was adopted on June 9, 2008. The ordinance limited the times when people were permitted to use Safe and Sane fireworks to between 9 a.m. and 11 p.m. from June 29 to July 5. Violators of this time restriction could receive administrative fine citations of \$200 for the first offense, \$400 for the second, and \$1,000 for the third.

Also codified was a \$1,000 administrative fine for possession or ignition of illegal fireworks. This new administrative fine was dubbed the “Ouch” fine by the Police Department in community outreach materials, as \$1,000 is viewed as a painful fine.

California Health and Safety Code section 12677 prohibits the possession of any dangerous fireworks without a permit (non-Safe and Sane fireworks). Any person who violates this law is guilty of a misdemeanor, and may be punished by a fine ranging from \$500 and \$1000 and/or imprisonment in the county jail up to a year. Prior to the ordinance allowing a \$1,000 administrative fine for possession of dangerous fireworks, Police Department staff relied on the use of this Health and Safety Code section for enforcement. Staff found that in most cases, these misdemeanor cases were reduced in court to infractions, with the penalty being a fine. This process was burdensome and time consuming, with officers often being subpoenaed to court several times prior to the case reaching disposition. This also created added overtime expenditures for officers to attend court. Following the adoption of this ordinance, officers began issuing administrative fines in almost all cases versus issuing a criminal citation. This practice continues today.

#### *2013 Task Force*

Following the July 4, 2012 holiday, staff and City Council received renewed complaints regarding fireworks in Pacifica. Concern was expressed regarding the use of fireworks (both



illegal and Safe and Sane) and their impact on beaches, particularly the effect of toxic litter from fireworks on the beaches, ocean and wildlife. At the October 8, 2012 City Council meeting, staff presented a list of potential actions to address these concerns. Options presented included identifying specific areas to ignite Safe and Sane Fireworks, banning Safe and Sane fireworks on beaches and banning the sale/use of these fireworks in Pacifica. At the December 10, 2012 City Council meeting, an initial option of banning Safe and Sane fireworks was removed from consideration. City Council cited previous advisory ballot measures that strongly supported the continuation of the program as reasoning for removal of that option. City Council directed staff to bring back a resolution creating a Fireworks Task Force to recommend further options.

On February 11, 2013, City Council adopted a resolution creating a Fireworks Task Force and appointed Task Force members. This task force was led by then Chief of Police Jim Tasa. On June 24, 2013, an Urgency Ordinance was adopted by City Council as a result of the work of this Task Force. The ordinance specified a specific portion of Linda Mar Beach where Safe and Sane fireworks may be ignited, prohibiting fireworks on all other beaches. In addition, the recommendations of the Task Force resulted in the City providing two additional areas where Safe and Sane fireworks could be ignited on the 4<sup>th</sup> of July. City staff closes the south Linda Mar Beach lot (pump house) and the south Rockaway Beach lot (Surfer's Lot) for use by persons using Safe and Sane fireworks. Debris boxes are placed in these areas by Recology of the Coast to allow for appropriate waste disposal.

Also implemented was an enhanced beach clean-up program. Non-profit groups granted fireworks permits are required to complete 10 hours of beach clean-up on July 5<sup>th</sup>, and 10 hours on one additional scheduled Saturday, coinciding with a Pacific Beach Coalition clean-up event. A community-wide anti-littering campaign was established to encourage responsible disposal of fireworks refuse. Posters and flyers are distributed to schools, local businesses, fireworks stands, beach garbage receptacles, and are promoted via City social media platforms. The above processes remain in effect today.

### *2017 Task Force*

At a City Council meeting on September 26, 2016, in response to renewed community concerns over illegal fireworks use, City Council provided direction to staff on the creation of an Illegal Fireworks Task Force, which was created to recommend enforcement strategies to combat illegal fireworks and public outreach strategies to educate and deter the possession and use of illegal fireworks. In addition, City Council directed staff to return with a Social Host Ordinance regarding possession or discharge of illegal fireworks. This ordinance holds a property owner or person in control of the property liable for a \$1000 administrative fine for discharge of illegal fireworks from the property, regardless of who discharged the firework. This ordinance was designed to discourage illegal use of fireworks on private property, commonly in residential backyards. In the 1990's, illegal fireworks were prominent on the beaches in Pacifica. In response, the Police Department conducted heavy enforcement on the beaches, particularly Linda Mar Beach, which over the course of several years moved the illegal firework problem predominately into Pacifica neighborhoods, creating the need for a Social Host Ordinance. On May 22, 2017, City Council adopted amendments to the fireworks ordinance, adding the Social Host component.

On June 17, 2017 the City Council approved the recommendations of the Task Force, which included:

- Implementation of a Smart Phone application to report firework violations
- Soliciting online tips regarding fireworks violations
- Pre-July 4<sup>th</sup> contact of habitual fireworks violators by officers
- Concentration of officers in problem areas (rather than spreading staff out and

- answering each individual fireworks call)
- Increasing community outreach via school, PCT 26, Chamber of Commerce, social media platforms and community organizations
- Promoting the Social Host Ordinance via the “Host a Show, Pay the Dough” campaign

Following the implementation of these strategies, some problem neighborhoods reported less illegal activity, while some reported more activity. Via postings on social media platforms, the culture in certain areas of Pacifica was apparent with many community members making comments relating to the use of illegal fireworks such as “This is what we do on the 4<sup>th</sup>, it’s only one day, deal with it.” The Police Department continues to use the strategies implemented by the 2017 Illegal Fireworks Task Force.

### Police Department Activity

July 4<sup>th</sup>, as well as the days leading up to and after, create an increase in calls for service for the Police Department. Calls for service related to fireworks dramatically increase on July 4<sup>th</sup>. Most calls are related to illegal fireworks and occur during the period between 5pm and midnight. Below is a breakdown of calls for service and administrative citations issued on July 4<sup>th</sup> in recent years:

Year	Fireworks Calls (All Day)	Fireworks Calls (5pm-Midnight)	Total Calls All Call Types (All Day)	Admin Cites Issued
<b>2014</b>	<b>107</b>	<b>104</b>	<b>157</b>	<b>14</b>
<b>2015</b>	<b>112</b>	<b>97</b>	<b>168</b>	<b>9</b>
<b>2016</b>	<b>113</b>	<b>103</b>	<b>176</b>	<b>7</b>
<b>2017**</b>	<b>238</b>	<b>201</b>	<b>334</b>	<b>12</b>
<b>2018</b>	<b>119</b>	<b>110</b>	<b>229</b>	<b>12</b>
<b>2019</b>	<b>108</b>	<b>95</b>	<b>229</b>	<b>20</b>

*\*\*The use of a smart phone application created an increase in calls for service as community members were reporting the same violations on their smart phones and via land line.*

The Safe and Sane fireworks program creates little enforcement activity for the Police Department. Fireworks stands are run responsibly by the permitted groups in compliance with local and state codes, creating very few if any calls for service each year. Calls for service related to fireworks are most often related to illegal fireworks, with very few violations related to Safe and Sane fireworks use. However, the presence of Safe and Sane fireworks on July 4<sup>th</sup> creates some enforcement challenges for police staff, especially during the hours of darkness. Officers attempting to target illegal fireworks report difficulty determining what type of firework someone is holding or using until they are close. As such, those holding illegal fireworks can often hide them as officers approach.

The Safe and Sane fireworks program also creates some administrative work for police staff. Once firework permits are processed, police staff hold a joint meeting, along with Fire and Public Works personnel, to educate permit holders regarding municipal codes, fire inspections and beach clean-up processes. Police staff also create and coordinate beach clean-up dates and assure minimum clean-up hours are met.

If the Safe and Sane fireworks program was to be discontinued, it is likely the Police Department response to July 4<sup>th</sup> activities would *not* change noticeably. Police Department staff does not believe there is a correlation between Safe and Sane fireworks usage and illegal fireworks activity. It has been staff's experience that some violators discharge only illegal fireworks and some discharge both Safe and Sane and illegal fireworks. The likelihood that illegal fireworks would continue even without the Safe and Sane program is bolstered by July 4<sup>th</sup> observations throughout San Mateo County. While Pacifica and San Bruno are the only 2 jurisdictions that allow Safe and Sane fireworks, most jurisdictions report some level of an illegal fireworks problem. This is easily seen each year with a drive to Skyline Blvd. after dark on July 4<sup>th</sup>. Looking north, east, and south, illegal fireworks discharges are visible throughout the sky from many jurisdictions where Safe and Sane fireworks are not permitted.

### **Fire Department Activity**

According to Fire Chief Ron Myers, North County Fire Authority (NCFA) staff previously studied the issue of Safe and Sane fireworks through a Pacifica Fireworks Task Force and determined that the primary causation and risk of fire and injury comes from illegal fireworks. There is no history of any devastating fires or injuries occurring in the City of Pacifica due to Safe and Sane fireworks. Chief Myers advised that NCFA would rather not have any type of fireworks utilized due to the potential and/or perceived risk, especially illegal fireworks. However, in the case of the City of Pacifica, the revenue supports many non-profit programs in the community and also covers City and NCFA overtime costs. If illegal fireworks cannot be eliminated but the Safe and Sane Program was discontinued, then the City may be creating a financial hardship on itself by having to continue to incur overtime expenses, but not having revenues from the Safe and Sane program to cover these expenses.

The NCFA implements an Incident Action Plan (IAP) and develops contingency plans, required in handling multiple emergency incidents in preparation for July 4<sup>th</sup> deployment each year. NCFA incurs overtime expenditures to supplement staffing in Pacifica due to the increased threat of fire from all fireworks activity. In Brisbane and Daly City, municipalities that do not allow Safe and Sane fireworks, staffing is also increased due to the risk of fire from illegal fireworks. The overtime expenditures related to Pacifica are paid for by the 8% safety fee charged to the non-profit groups selling fireworks.

### **Department of Public Works Activity**

Each year, the Department of Public Works performs a myriad of duties related to the July 4<sup>th</sup> holiday. Specifically related to Safe and Sane fireworks are the following tasks:

- Delivery signage for fireworks booths to permitted groups
- Trash can, signage and barricade placement at the Rockaway Beach (Surfer's Lot) and Linda Mar Beach (south lot) Safe and Sane Fireworks locations
- Monitor and empty trash cans in Safe and Sane fireworks locations
- Clean-up of Safe and Sane fireworks locations
- Clean-up of fireworks debris on City streets (some related to Safe and Sane fireworks)
- Assist in coordination of beach clean-up days at clean-up sites on July 5<sup>th</sup> and (2) additional Saturdays

If the Safe and Sane fireworks program is discontinued, the City would realize a savings for the overtime hours spent conducting these tasks. However, there are still numerous personnel-intensive tasks that would need to continue. Visitors would still congregate at beach areas, requiring the monitoring of trash cans, and the replenishment of bathroom supplies. Public

Works is responsible for the signage and metal barricade delivery/placement at the Linda Mar Beach parking lot to prepare the location to function as a Police command post on July 4<sup>th</sup>. Also, temporary beach signage prohibiting fireworks in all areas would need to be placed prior to July 4<sup>th</sup>.

## **Litter**

Litter has long been an issue as it relates to both illegal and Safe and Sane fireworks. Commonly, those using fireworks do so at or near their residences, leaving fireworks debris in the street. Staff has noted that some community members stack their debris in the gutter area of the sidewalk to cool, then dispose of it properly. However, it also seems common that debris is left in the gutter and street for Public Works staff and Recology staff to clean. If the Safe and Sane fireworks program were to end, debris from illegal fireworks would continue to be present in the streets after July 4<sup>th</sup>. However, if the program ended, the Police Department would continue to patrol the beaches assuring no fireworks were discharged in those areas. This would likely have the effect of greatly reducing the litter from fireworks debris on beaches, particularly Linda Mar Beach.

## **Communities Allowing Safe and Sane Fireworks**

The Bay Area is comprised of 101 municipalities. Of those, only 11 municipalities allow Safe and Sane fireworks. Those municipalities are San Bruno, Pacifica, Union City, Newark, Dublin, Gilroy, Watsonville, Petaluma, Sebastopol, Rohnert Park and Cloverdale.

## **Pros and Cons of the Safe and Sane Fireworks Program**

Staff has identified the following pros and cons regarding the program:

- Continuing the program offers a continued revenue source for local non-profit groups via Safe and Sane Fireworks Sales;
- Continuing the program provides a revenue source via the 8% fee to recoup City expenditures. Absent the Safe and Sane program, these expenditures would still be incurred. Without a special revenue source to recoup costs, the fiscal impact to the City's General Fund would be approximately \$30,000 to \$35,000 each 4<sup>th</sup> of July;
- Discontinuing the program would likely reduce environmental concerns regarding litter, particularly on Pacifica beaches;
- Discontinuing the program would make police enforcement efforts easier. Officers would not have to distinguish between illegal and Safe and Sane fireworks. ALL would be illegal to possess or discharge. However, as previously noted, illegal fireworks are not anticipated to subside;
- Discontinuing the program would eliminate administrative time spent by Police Department personnel required to manage the program and beach clean-up efforts;
- Discontinuing the program would eliminate beach clean-up dates for non-profit permit holders. The impact of this would depend on if a ban on fireworks were effective in reducing beach litter on July 4<sup>th</sup>.

## **Options**

Staff has identified several options the City Council may wish to consider regarding next steps concerning the Safe and Sane fireworks program:

- Decline to take further action or provide further staff direction (continuing status)

quo with the Safe and Sane fireworks program);

- Direct staff to bring back an ordinance to repeal and replace Article 2 Chapter 3 of Title 4 of the Pacifica Municipal Code with an ordinance that prohibits Safe and Sane fireworks, ending the program;
- Seek further community input regarding the continuance of the Safe and Sane fireworks program. Should the Council wish to place another advisory measure on a future ballot, the deadline has passed to make the November 2019 ballot. For March 2020, the estimated cost of 1 measure on the ballot from the County Elections Office is in the range of \$114,200 to \$137,040. All City Council actions, including adopting the resolution to place the measure on the ballot with the measure language, would need to occur by the November 12, 2019 Council meeting. However, if an advisory measure were placed on the March 2020 ballot, it should be noted that the fireworks permit process for the 2020 fireworks season would be well underway by March. It is estimated that an advisory measure for the November 2020 ballot would cost \$60,900 to \$73,080. The much lower cost estimate for November 2020 reflects it being a regular election for Pacifica and for other cities, so the total consolidated election cost is shared by more municipality participants;
- Identify additional information for further staff research

**RELATION TO CITY COUNCIL GOALS AND WORK PLAN:**

Addressing the continuation of the Safe and Sane fireworks program resonates with the City Council Goals of *Environmental Sustainability* and *Maintaining a Safe Community*. The City Council Priority of *“Hold a Safe and Sane Legal Fireworks study session with City Council”* is completed by holding this study session.

**FISCAL IMPACT:**

The fiscal impact to consider the issues addressed in this report are limited to staff time for preparation and presentation of the report. Further expenditures could be realized depending on the direction of City council.

**ORIGINATED BY:**

Police

**ATTACHMENT LIST:**

No attachments (TXT)