



COUNCIL AGENDA: 9/10/2019

ITEM: 8.1

FILE NO: 19-771

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Toni J. Taber, CMC
City Clerk

SUBJECT: SEE BELOW

DATE: September 24, 2019

SUBJECT: Fireworks Ordinance Workplan Status Report. – DEFERRED

RECOMMENDATION:

As recommended by the Public Safety, Finance and Strategic Support Committee on August 15, 2019, accept the status report on the implementation of the Fireworks Ordinance Workplan Post-Fourth of July 2019.

CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Fire)

[Public Safety, Finance and Strategic Support Committee referral 8/15/19 - Item (d)1]

DEFERRED TO 10/1/2019 PER RULES AND OPEN GOVERNMENT COMMITTEE



Memorandum

TO: PUBLIC, SAFETY, FINANCE, &
STRATEGIC SUPPORT COMMITTEE

FROM: Robert Sapien, Jr.

**SUBJECT: FIREWORKS ORDINANCE
WORKPLAN STATUS REPORT**

DATE: August 5, 2019

Approved

Date

RECOMMENDATION

Accept the status report on the implementation of the Fireworks Ordinance Workplan Post-Fourth of July 2019.

BACKGROUND

In 1984, to protect the health, safety and welfare of its residents, the City Council voted to amend the Municipal Code banning all fireworks, including “safe and sane” fireworks with the exception of controlled public fireworks displays operated by a licensed pyrotechnician pursuant to a permit by the Fire Department. (For a full history of the City’s efforts on illegal fireworks, see Attachment A, Illegal Fireworks Activities Timeline.)

In August 2014, the City Council directed the City Manager to make changes to fireworks enforcement after several years of increasing noise and safety complaints from residents. Both the Fire and Police Departments were directed to look for options that might slow and eventually contain the illegal sale, use, possession and storage of fireworks. In June 2015, the Council directed staff to establish a framework to cite, fine, and adjudicate the use, possession, sale, advertisement for sale, transportation, and/or manufacturing of fireworks. The Council also directed staff to explore the use of Administrative Citations in addition to criminal charges. On April 12, 2016, the Council adopted an ordinance amending the Municipal Code 10.17 to prohibit the sale, use, possession, and storage of fireworks and to provide for civil liability under certain circumstances for persons responsible for minors who violate the ordinance. The Council also adopted a resolution amending the Administrative Citation Schedule of Fines to establish administrative fines for fireworks-related violations.

In the ensuing years, the City implemented numerous activities and a reporting pilot program to combat the illegal sale, use, possession, and storage of fireworks. In May through July of 2016,

under the amended Municipal Code ordinance, the City instituted a comprehensive marketing and outreach campaign, implemented a new online fireworks reporting platform, and deployed “in the field” enforcement personnel. In 2017, Fourth of July efforts focused on improving and publicizing the reporting tool, development of a new and focused “respect your neighbors, veterans, and pets” messaging campaign, education and outreach utilizing multicultural media outlets, and additional deployment of “in the field” enforcement personnel. While data showed a dramatic increase in the number of online reports received by the City in 2016, 45 online citations were rescinded and changed to warnings to allow time to better prepare the community for enforcement actions.

For 2018, staff carried forward lessons learned from the 2017 Fourth of July reporting period and brought forward significant changes at the November 28, 2017 City Council meeting. Council accepted the 2017 Fireworks Ordinance Work Plan status report, which included several administrative changes to the program, including: a new messaging campaign (“Save Lives, Including Your Own”); a dedicated phone line for reporting illegal fireworks activity; updates to the Fireworks Online Reporting Form; and new advance deposit hardship waiver qualification criteria for all administrative citations. These changes were put in place for the 2018 New Year’s Eve fireworks and Tet/Lunar New Year reporting periods.

At the April 19, 2018 Public Safety, Finance, and Strategic Support Committee (PSFSS) meeting, the Fire Department updated the Committee about fireworks use on New Year’s Eve and Tet/Lunar New Year, reporting the establishment of Education and Awareness, Reporting, and Enforcement as major program components for 2018. The Fire Department also formally recognized goals to reduce the number of fireworks-related injuries and fires, increase the number of actionable reports, and decrease the number of illegal fireworks hotspots.

In August of 2018, the Fire Department reported to PSFSS on community feedback that illegal fireworks activity seemed lower in the days leading up to the 2018 Fourth of July compared to prior years even though there was still significant illegal use of fireworks within the City limits. Lessons learned from the 2018 Fourth of July reporting period included the importance of a public education and outreach campaign to change the behavior of a community. Specifically, to educate people on how to submit sufficient information for enforcement action and to explain the lack of police presence at known problem areas.

Mitigation activities and outcomes from the 2019 New Year’s Eve (December 17, 2018 – January 6, 2019) and 2019 Tet/Lunar New Year (February 1 – 10, 2019) reporting periods included the first time issuance of a Fireworks Non-Renewable Permit in an area known for celebrating using illegal fireworks. The “Fed up with Fireworks” campaign messaging was used for the second year in a row and distributed via a Social Media Kit along with displaying banners at the City’s 33 fire stations.

City staff implemented the following program adjustments as a result of the lessons learned from past reporting periods and in response to additional community stakeholder feedback:

- Fire Department Information Technology (Fire IT) group provided and continues to develop and support services of the online reporting tool;
- Fire Department initiated regular reporting at the Neighborhoods Commission;
- Fire Department partnered with Andrew P. Hill High School, Leigh High School, and Dartmouth Middle School to display campaign messaging on digital boards and banners;
- Google translation service was added to the online reporting system;
- Planning, Building, and Code Enforcement conducted community surveys;
- Planning, Building, and Code Enforcement sent emails and made phone calls to individuals who submitted reports during the 2019 Fourth of July reporting period advising individuals if their report resulted in the issuance of a Warning Notice; and
- Office of Communications partnered with the Santa Clara County Fire Department to expand the *It's Not Worth It* campaign messaging regionally.

ANALYSIS

This memorandum summarizes illegal fireworks mitigation activities related to the Fourth of July reporting period covering June 1, 2019 through July 8, 2019.

Fire Department

As we enter our third year of program development, the Fire Department has focused on systematically putting in place elements that can operationalize the program. In October 2018, the Fire Department initiated regular reporting at the Neighborhoods Commission to engage with San José neighborhood representatives on the issue of illegal fireworks. Staff routinely attends, shares, and solicits feedback from the Commission on program activities. The Fire Department also continues to collect fireworks-related data by requiring department personnel to report fireworks-related incidents. This data is used to determine if fires and emergency medical Calls for Service were caused by fireworks.

Fire Communications received one Call for Service for a fireworks-related incident during the 2019 Fourth of July reporting period. However, based on the on-scene determination of responding fire officers, 15 incidents during the reporting period were fireworks-related. Of the 15 incidents, 7 were vegetation fires; 1 was a structure (not a building) fire; 2 were rubbish/trash/waste; and 5 were small outside fires. The Department did not receive any calls for medical emergencies related to fireworks.

The Fire Department displayed “Fed Up With Fireworks” banners at all 33 fire stations and has established a process to continue this practice for every reporting period subsequently.

In addition to seeing the benefits of a consistent campaign message, we have a stable online reporting system to capture the data individuals submit that is necessary to issue citations and warnings. The Fire Department Information Technology (IT) group currently provides

development and support services after the online reporting tool IT Lead separated from the City in August 2018.

For the first time this year, a partnership was developed between the department and Andrew P. Hill High School, Leigh High School, and Dartmouth Middle School to utilize their digital messaging boards to display campaign messaging.

Police Department

Allocation of resources to fireworks-related complaints continues to be a challenge for the Police Department given the competing and more urgent Priority 1 and 2 Calls for Service. However, the Police Department did seize 300 lbs. of fireworks during a routine vehicle stop. Officers also gave one in-field citation and made two arrests for illegal fireworks activity during the 2019 July Fourth reporting period.

The Police Department did increase visibility by utilizing on-duty patrol resources to drive through neighborhoods with reported fireworks concerns. Specifically, on July 4, two officers worked overtime and were assigned to conduct patrol checks in areas based on citizen complaints and Calls for Service. In addition, six officers and one Sergeant from the on-duty Street Crimes Unit, were deployed to Alviso from noon to midnight on July 4. No major incidents occurred and no arrests were made or citations issued. Police also displayed "Stop illegal fireworks" banners at both the Police Administration Building and the Police Substation.

Staff has investigated alternatives for proactive hotspot enforcement, however, being proactive is challenging as the holiday is extremely busy and major special events are taking place throughout the City. All available patrol resources are committed to Priority 1 and 2 calls throughout the City, while all on-duty specialized units are deployed to ensure traffic control and public safety related to the fireworks events at the 4th of July 2019 Family Fun Festival and Firework Show at Almaden Lake Park, Rotary Firework Downtown, and other special events.

Police Communications reported receiving 464 Calls for Service related to fireworks during the entire Fourth of July reporting period.

Additionally, the Police Department issued 29 block party permits and waived the fee if residents holding permitted block parties committed to not using fireworks at their event.

Planning, Building and Code Enforcement

A community survey was sent out in February 2019 to 616 individuals who had previously reported fireworks activity through the online reporting tool. The purpose of the survey was to solicit information on their experience using the online reporting tool, their understanding of the City's response model, and suggestions for improvement to the program. The City received a 29% response rate (178 responses out of 616). Key survey responses are as follows:

- 66% of the respondents did not know Police/Fire would not immediately respond

- 42% of the respondents found using the online reporting tool easy/very easy and 39% found using the tool neither easy nor difficult
- 49% of the respondents had suggestions on how to make the online reporting tool better

With 49% of the respondents providing suggestions, the Planning, Building and Code Enforcement Department summarized the top four categories suggested by the community. The categories are:

- The lack of enforcement despite reports (approx. 25 responses)
- The lack of real-time response and/or active patrols by Police or Fire (approximately 20 responses).
- General changes to the online reporting system such as: anonymous complaints, dropping exact address requirements, and adding a map tool (approximately 12 responses).
- Lack of feedback/confirmation as to whether their report was received and whether their report resulted in any enforcement action (approx. 10 responses).

In addition to reviewing all reports submitted through the online reporting tool, the Planning, Building and Code Enforcement Department sent emails to 147 of the 150 reporting parties (with phone calls made to the remaining 3) to advise individuals that their report resulted in the issuance of a Warning Notice.

City Manager's Office - Office of Communications

In 2018, the Office of Communications, in collaboration with the program's Fireworks Prevention Campaign Committee, developed a new public education and outreach campaign, *Fed Up with Fireworks*, to raise awareness about the danger of fireworks and to educate residents on how to use the reporting tool. Another facet of the campaign, *It's Not Worth It*, was developed in partnership with the Santa Clara County Fire Department, and both campaigns were designed as a multi-year effort to be continuously relevant over time.

This year, the City of San Jose's *Fed Up with Fireworks* campaign, once again, used a wide array of distribution channels, and ran from June 1 until July 8, featuring billboards (3), VTA bus advertisements (20), VTA Light Rail 10 Center Stage Ads, search engine display and Mercury News advertisements, library digital signage, and Facebook ads – all available in English, Spanish and Vietnamese. New building facility pop-up banners were also created and displayed at 14 community centers and 25 libraries. Additional public relations efforts used were: social media kit for City Councilmembers and neighborhood associations to engage their constituents; two press releases distributed at the beginning of the reporting period and again prior to July 4; and a series of social media messages on the City of San Jose's Facebook, Twitter and NextDoor throughout the reporting period.

At the request of the Santa Clara County Fire Department, the City of San Jose expanded the *It's Not Worth It* campaign messaging regionally to include surrounding towns and cities within the County. This regional adoption illustrates the leadership role the City of San Jose is playing in

providing effective public education and outreach messaging intended to reduce injuries and fires caused by illegal fireworks. See Attachment B, Public Education and Outreach Campaign, for campaign messaging images and measurements.

Online Reports

A total of 1,946 reports were submitted online, of which 161 were actionable. The total number of filed reports decreased from the prior year, however, there was approximately a 75% increase in actionable reports.

As outlined in Attachment C, Illegal Fireworks Reporting Summary, of the 1,946 online reports received by the City and reviewed by the Planning, Building and Code Enforcement, 596 were found to have insufficient information and another 1,189 were incomplete. Reports with insufficient information contained no address, no named party, and no photographic or video evidence. Those reports that contained no information at all were designated as incomplete. There were 150 submissions that provided sufficient information (such as an address) for the City to issue a Warning Notice and 7 that contained sufficient additional evidence for the City to issue a citation.

There continues to be a high percentage of online reports that are non-actionable. Specifically, about 92% of the total submitted online reports did not contain enough information for the City to issue a warning or citation compared to 97% the prior year.

Phone Reports

The dedicated Fireworks Hotline (408-535-5600) was activated and received a total of 787 calls during the 2019 Fourth of July reporting period. After-hours staff directed callers to the online form, but if the caller didn't have access or was unable to fill out the online form, staff was able to fill out the form for them.

Of the 787 calls received during the Fourth of July reporting period, 68 were answered during normal business hours by the City Customer Contact Center. Another 715 calls came in after hours and 434 were redirected to the City's contracted after-hours answering service.

Lessons Learned

The City has made major progress on all components of the program, however, there continues to be blatant illegal use of fireworks within the City limits. The three following areas identified in previous updates provide a solid basis for determining next steps:

1. Online Reporting Tool – An extremely high percentage of submitted reports contain insufficient information or were incomplete. An easy and convenient mechanism to report illegal fireworks activity is essential for the community to provide the required information necessary for the City to take an action.

2. Public Safety Presence – Community members continue to voice concerns regarding the lack of police presence at known problem areas. The presence of Public Safety Officers may provide some deterrence for illegal fireworks activity, however, there is no current data to isolate or provide the City the best enforcement approach to eliminate illegal fireworks activity.
3. Public Education and Outreach Campaign – Education and awareness are important components to change behavior of a community. An effective message that captures the attention of a target audience, is easy to understand and remember, is available in multiple languages, does not require any further explanation, and calls for target audiences to act to effect or support a proposed change appears to produce positive results. Additional analysis is necessary to determine how best to utilize campaign messaging to achieve actual program goals.

Next Steps

Staff will focus on:

1. Messaging outreach and education activities to address the suggestions received from the community survey;
2. Production of an online tutorial video on how to use the reporting tool and what type of information is needed for the City to issue a citation or warning notice;
3. Exploring integration with MySanJoseApp to provide the community with a “one-stop” mechanism to report issues to the City, and;
4. Pursuing Police Department sting operations targeting the sale of fireworks.

The team continues to develop methods to define, gather, normalize and track data that can be used to make program adjustments and/or develop policy changes.

August 5, 2019

Subject: Fireworks Ordinance Workplan Status Report

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COORDINATION

This memorandum was coordinated with the City Attorney's Office; City Manager's Office of Communications; Information Technology Department; Planning, Building, and Code Enforcement Department; and Police Department.

/s/

ROBERT SAPIEN, JR.

Fire Chief

Fire Department

For questions, please contact Ryan Dulin, Deputy Director, at (408) 794-6984.

Attachments:

Attachment A: Illegal Fireworks Activities Timeline

Attachment B: Public Education and Outreach Campaign

Attachment C: Illegal Fireworks Reporting Summary