CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Edgardo Garcia
Rosalynn Hughey

SUBJECT: FIREWORKS ORDINANCE WORKPLAN STATUS REPORT

DATE: September 24, 2019

Approved D. DSyC Date 9/24/19

SUPPLEMENTAL

REASON FOR THE SUPPLEMENTAL

On August 15, 2019, the Fire, Police, and Planning, Building and Code Enforcement Departments presented a status report on the implementation of the Fireworks Ordinance Workplan Post-Fourth of July 2019 at the Public Safety, Finance and Strategic Support (PSFSS) Committee meeting. This supplemental memorandum includes information addressing topics discussed at the meeting regarding enforcement and the online reporting tool.

ANALYSIS

Police Department

Given concerns raised at the PSFSS Committee meeting on August 15, 2019, the Police Department's deployment and enforcement plan for Fourth of July 2020 is detailed below:

Deployment Plan and Enforcement:

As mentioned in the August 15, 2019 PSFSS Committee meeting, on-duty patrol officers must be allocated to address Priority 1 and 2 calls for service on the Fourth of July holiday. These calls for service may not be specifically related to the holiday celebrations but do impact the Department's ability to respond to less severe calls, including fireworks violations. This past fireworks season, the Department increased visibility by encouraging on-duty patrol resources to drive through neighborhoods when not responding to priority calls and will do so again next year.

Next year, the Department also anticipates the Special Operations Unit personnel will again be deployed to the Downtown and Almaden Lake Park Fireworks shows to ensure traffic control and the public's safety. Similarly, the Department will again plan to offer overtime assignments to officers who want to work on July 4 specific to fireworks-related enforcement. It should be

noted that it has traditionally been challenging to fill these overtime positions as last year only two officers volunteered for this assignment. However, if the Department is not able to attract a sufficient number of volunteers next year, the Department will look into possibly incentivizing the program to attract more volunteer officers.

For Fourth of July 2020, the Department will conduct a pilot to determine the efficacy of concentrating available overtime resources on one hotspot, rather than spreading out the limited resources to cover multiple hotspots as has been the past practice. The Department will consult its Crime Analysis Unit and the Fire Department to identify a hotspot area. Identification will be based on statistical analysis of data from fireworks-related Calls for Service and reports received from the online reporting tool. Once a hotspot has been identified, the Department will deploy available overtime patrol officers to the identified hotspot area if sufficient officers have volunteered for the overtime assignment. An evaluation of the effectiveness of this targeted overtime deployment strategy will be conducted post-Fourth of July 2020 for future officer deployment consideration.

As discussed above, during this past Fourth of July, two officers worked overtime and were assigned to conduct patrol checks in areas based on citizen complaints and fireworks-related Calls for Service. Under the San José Municipal Code Section 1.08, officers can issue misdemeanor citations to violators if they observe the violation occurring. Another option for police officers is the ability to issue an Administrative (non-criminal) Citation to property owners if the officers are able to identify the exact property from which the fireworks were set off. Currently, officers have not been trained to issue Administrative Citations. In addition, Priority 1 and 2 Calls for Service take precedence over issuing Administrative Citations. However, officers can report violations through the online reporting tool and work with the Planning, Building and Code Enforcement Department to issue the Administrative Citation. This would be a safe and efficient way for officers to enforce fireworks violations when they are not responding to Priority 1 and 2 calls for service, therefore, this enforcement effort will also be piloted next year.

Sting Operations or Similar:

In the PSFSS Committee report under the Next Steps section, among other items, it stated that staff will focus on pursuing Police Department sting operations targeting the sale of fireworks to help eliminate illegal fireworks. Since the report was heard by the PSFSS Committee, the Department has further evaluated the feasibility of conducting such firework sting operations. These operations would need to occur months ahead of the Fourth of July holiday. Personnel that would conduct these types of operations have primary duties that include the investigation and suppression of violent aggravated assaults, gang enforcement and narcotics investigations. Operationally, given the time needed for successful fireworks sting operations, the Department strongly believes that reassigning these limited resources will not be impactful in helping to eliminate illegal fireworks activity. These limited resources are instead needed to concentrate on violent crime and Calls for Service. Additionally, the Department is aware that a majority of the illegal fireworks being purchased is often done through direct mail-order from a seller outside of the City of San José, or the United States, rendering these types of operations ineffective.

Therefore, due to the Department's limited resources in Special Operations, ineffectiveness of firework sting operations, and the Bureau of Field Operations' primary responsibility to respond to and investigate Priority 1 and 2 Calls for Service, sting operations or similar activities related to the sale of illegal fireworks will no longer be pursued.

Planning, Building and Code Enforcement Department

The PSFSS Committee recommended that staff evaluate making the fireworks online reporting tool available to the public year-round, not only during the identified peak periods (Tet/Lunar New Year, New Year, and Fourth of July holidays), but throughout the year to further discourage and reduce the sale, use, possession and storage of fireworks. Staff has determined the online reporting tool can be made available year-round with minimal impact to staff resources and existing services. During non-peak periods, the online reporting tool will remain active on the Fire Department internet website, ensuring consistency and continuity with current firework enforcement efforts and public messaging campaigns. Planning, Building and Code Enforcement-Code Enforcement Division, will monitor the online reporting tool, review reports monthly, and conduct follow up and enforcement as appropriate, utilizing existing staff resources. During peak periods, staff will continue to address firework reports under the current framework involving coordinated efforts between the Fire, PBCE and Police Departments as well as the City Manager's Office of Communications.

COORDINATION

This memorandum was coordinated with the City Attorney's Office, the City Manager's Office of Communications, and the Fire Department.

/s/
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