



# *CITY COUNCIL AGENDA REPORT*

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**MEETING DATE:** April 14, 2009

**ITEM NUMBER:**

**SUBJECT:** FIREWORKS OPTIONS AND ENFORCEMENT

**DATE:** MARCH 26, 2009

**FROM:** CITY MANAGER'S OFFICE /ADMINISTRATION

**PRESENTATION BY:** WENDY LEECE, MAYOR PRO TEM

**FOR FURTHER INFORMATION CONTACT:** ANN C. SHULTZ, LEGISLATIVE AND PUBLIC AFFAIRS  
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## **RECOMMENDATION:**

That the City Council review options with regard to the prevention and enforcement of illegal fireworks and direct staff accordingly.

## **BACKGROUND:**

In 2008, the City Council reviewed and adopted a number of options aimed at educating the community on, and preventing the use of illegal fireworks. These are detailed in the March 10, 2009 Study Session report (see Attachment 1). At the March 10, 2009 Study Session, Mayor Pro Tem Wendy Leece presented additional options for the prevention of illegal fireworks to be considered by the City Council. The City Council raised several questions and issues to be considered regarding these options before they make a determination as to whether they wish to adopt any of the additional options. Answers to these questions are included in Attachment 2.

## **ANALYSIS:**

In the November 6, 1990 General Election, an Advisory Measure on the issue of fireworks was placed before the Costa Mesa voters. Measure W read "Should the City of Costa Mesa continue to permit the sale and discharge of State Safety Approved fireworks by nonprofit organizations within the City of Costa Mesa?" The actual vote tally was 11,925 (49.675%) "yes" votes and 12,081 (50.325%) "no" votes. Rounded to whole numbers, this calculated to a 50% "yes" and 50% "no" split.

In early 1991, the City Council considered the fireworks issue and on a 3-2 vote, decided to continue to allow safe and sane fireworks. Since that time, there has been an ongoing discussion as to how to balance the need for fundraising for local school and sports groups with the protection of neighborhoods during the Fourth of July holiday period.

Last year the City Council adopted several options for the prevention of illegal fireworks. At the March 10, 2009 Study Session, Mayor Pro Tem Leece offered four additional options for educating the community and preventing the use of illegal fireworks.

At this time, after listening to and considering the comments from fellow Council Members, Mayor Pro Tem Leece is asking that the City Council consider the adoption of two of the four options included in the March 10 report.

### **OPTION 1) ISSUE ADMINISTRATIVE CITATIONS FOR THOSE CAUGHT USING FIREWORKS ILLEGALLY.**

➤ **Fold firework citation into existing process**

Costa Mesa currently has a program in place for other administrative citations such as code enforcement and dog ordinance violations. If the City Council wishes to adopt the use of administrative citations for illegal fireworks, then staff is recommending that citations for illegally using fireworks be folded into this same general process (see Attachment 3 for the current code enforcement process). Code Enforcement has money budgeted for this program which runs approximately \$200 a month. This covers the cost of a contract hearing officer.

➤ **Add wording to municipal code and raise cap for fines to \$1,000**

The City Attorney's Office has suggested that wording that includes safe and sane fireworks that have been tampered with or altered be added to Section 9-179 of the Municipal Code that defines dangerous fireworks, and that the cap for fines be raised from \$500 to \$1,000.

➤ **Revenues should cover or exceed costs**

For fireworks related citations, a contract hearing officer would cost approximately \$150 for the first hour and \$100 for each additional hour. The length of time for a hearing could vary from a few minutes to over an hour depending on the circumstances related to the citation. The only other additional cost would be a Police Officer's time to attend a hearing if needed and any necessary legal advice. Because the number of citations issued and the number appealed would vary from year to year, it is difficult to estimate the amount of revenue and expenditures that could be expected. Staff is confident that if the fines were up to \$1,000, the costs should be equal to or less than the costs to administer the administrative citations process including the hearings.

Should the Council wish to proceed with the issuance of administrative citations for those caught using fireworks illegally, staff will bring back the needed amendments to the municipal code at a future Council Meeting along with specific details about how the process would work.

**OPTION 2) DETERMINE THE “HOT SPOTS” AND ILLEGAL FIREWORK PROBLEM AREAS AND NOTIFY RESIDENTS ABOUT FIREWORK SAFETY AND FINE AMOUNTS.**

➤ **No legal concerns with targeted notification**

Staff asked the City Attorney’s Office to determine whether there were any legal concerns in targeting designated areas in the City. The Attorney’s Office has indicated there would be no problem in doing so.

➤ **“Hot spots” identified**

The Police and Fire Departments have identified and prioritized seven areas that experience higher than average levels of illegal fireworks activity. In descending order they are:

- 1) 36 calls RD 10- west side, east of Harbor, north of Victoria, west of Pacific, south of Joann.
- 2) 32 calls RD 7-east side, north of 19<sup>th</sup>, east of Newport, south of Victoria, west of Santa Ana.
- 3) 31 calls RD 8- west side, west of Placentia, north of 19<sup>th</sup>, east of riverbed, south of Victoria.
- 4) 29 calls RD 12- east side, north of 22<sup>nd</sup>, east of Newport, south of Mesa, east of Irvine.
- 5) 20 calls RD 13-north of Victoria, east of Harbor, south of Fair, west of Fairview.
- 6) 20 calls RD 5-east side, north of 17<sup>th</sup>, east of Newport, south of 19<sup>th</sup>, west of Santa Ana.
- 7) 18 calls RD20-northend, north of Adams, east of Harbor, south of 405, west of Fairview.

➤ **Use of 911 Reverse Technology**

In an effort to cut costs and reduce the use of paper, the suggestion is to use existing reverse 911 technology to notify approximately 8000 homes about firework safety and local enforcement/fines via telephone message. The cost of this service is five cents per call for a total estimated cost of \$400. If the City Council is interested in this option, staff would utilize existing resources to pay for this notification.

In addition, to options 1 and 2, the City Council also reviewed two other options at the March 10 Study Session. Mayor Pro Tem Leece has the following recommendations for these two items:

- It is suggested that the City continue with the existing level of resources to protect the community and enforce fireworks related laws over the Fourth of July holiday. Staff should use their professional judgment to deploy the resources in a manner that is best for the community. No increase in funding for protection and enforcement is proposed for this July.
- It is suggested that in-lieu of organizations paying any assessment that they make a greater commitment to educating their patrons about the proper use of legal fireworks as well as the dangers of illegal fireworks and that they remind customers to respect Costa Mesa's laws. No assessment for enforcement and/or clean-up costs is proposed.

#### **ALTERNATIVES CONSIDERED:**

Do not adopt an administrative citation process for fireworks and do not direct staff to notify the "hot spot" areas via telephone about firework safety and enforcement.

#### **FISCAL REVIEW:**

Should the City Council approve an administrative citation process for fireworks, it is anticipated that the fines would offset any costs related to the administration of the program. Should the City Council approve the notification of "hot spot" areas, the costs would be borne within the existing budget.

#### **LEGAL REVIEW:**

The City Attorney's Office has reviewed and approved sections related to the proposed changes in the Municipal Code.

#### **CONCLUSION:**

The City Council must determine whether they wish to direct staff to bring an amendment to the Municipal Code back to the City Council for consideration to commence an

administrative citation process for fireworks. The City Council must also determine whether they wish to direct staff to notify the seven “hot spots” via a telephone call.

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LEGISLATIVE AND PUBLIC AFFAIRS  
MANAGER

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THOMAS R. HATCH  
ASSISTANT CITY MANAGER

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MARC PUCKETT  
DIRECTOR OF FINANCE

ATTACHMENTS:   1   [March 10, 2009 Study Session Report](#)  
                      2   [Fireworks Issues and Answers](#)  
                      3   [Administrative citation process for code enforcement](#)