

FIREWORKS ISSUES AND ANSWERS

The following questions were raised at the March 10, 2009 City Council Study Session.

Will the Orange County Fair and Event Center be hosting a Fireworks Display this coming Fourth of July? If not, has this been communicated to the Mesa del Mar Homeowners Association?

Staff has contacted Steve Beazley, Chief Executive Officer and President of the Orange County Fairgrounds and Exposition Center. They will not be hosting a Fireworks Display this year. In response to Council Woman Foley's request, Mr. Beazley will contact Lisa Reedy, the President of Mesa del Mar HOA and inform her of this.

Does Newport Beach have commensurate problems with illegal fireworks?

During the period from July 3, 2008 through July 5, 2008, the Newport Beach Fire and Police Departments seized 42 pounds of Safe and Sane fireworks and 37 pounds of illegal fireworks. Newport Beach also has a sizable problem with alcohol related and disturbing the peace incidents because of the large numbers of tourists and visitors that congregate in the beach areas.

What is the cost estimate for the targeted mailing to "hot spots"?

The Fire and Police Departments have identified the following areas as having the highest level of activity related to illegal fireworks:

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 19th, east of Newport, south of Victoria, west of Santa Ana.
3. 31 calls RD 8- west side, west of Placentia, north of 19th, east of riverbed, south of Victoria.
4. 29 calls RD 12- east side, north of 22nd, 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 17th, east of Newport, south of 19th, west of Santa Ana.

7. 18 calls RD20-northend, north of Adams, east of Harbor, south of 405, west of Fairview.

The most cost effective way to notify these areas would be through the reverse 911 system. The cost to notify the estimated 8,000 residences would be \$400.

What was the disposition of citations and arrests from last year's Fourth of July?

Last year the Police made one arrest; a juvenile who altered a firework into an explosive device. He was not fined nor did he serve jail time. He is in the diversion program doing community service hours.

Can language be added to the Municipal Code that includes the illegal use of legal fireworks under the definition of "dangerous fireworks"?

The City Attorney's Office has indicated that the following wording can be added to Section 9-179 of the Municipal Code that defines "dangerous fireworks". "*Safe and Sane fireworks* means only those fireworks articles that have classified and registered as safe and sane by the state fire marshal and have in no way been tampered with or altered".

What is the cost estimate for implementation of an Administrative Citation Program?

Costa Mesa currently has a program in place for other administrative citations such as code enforcement violations and violations of the dog ordinance. 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.

For firework 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.

What is the maximum fine that can be charged under State law? Should a sliding scale be adopted for various offences or should this be left entirely to the discretion of the citing officer?

According to Senate Bill 839, fines will be limited by Government Code section 53069.4 which states that, "the local agency shall set forth by ordinance the administrative procedures that shall govern the imposition, enforcement, collection, and administrative review by the local agency of those administrative fines or penalties." The Code goes on to state, "where the violations would otherwise be an infraction, the administrative fine or penalty shall not exceed the maximum fine or penalty amounts for infractions set forth in subdivision (b) of section 25132 and subdivision (b) of section 36900." Thus, the Code only limits the amount that can be received if the "violation would otherwise be an infraction." The Costa Mesa Municipal Code Section 1-33 states that the Code can be enforced either as an infraction, misdemeanor, or an administrative hearing." Fireworks violations are generally prosecuted as misdemeanors. Consequently, there is no maximum fine or penalty that is required by the Government Code and the City is allowed to set the administrative fines.

Chapter II of the City's Municipal Code that sets forth the Administrative Citation process specifies fines of \$100, \$200 and \$500. If the City Council wishes to raise the maximum fine for citations for illegal fireworks or the illegal use of legal fireworks, clarifying wording must be added to the Municipal Code. Based on neighboring cities' administrative fines related to the use of illegal fireworks, it has been suggested that the cap be raised to \$1,000.

How has Garden Grove implemented their Administrative Citation Process?

The attached report prepared by Deputy Fire Chief Keith Jones details the City of Garden Grove's Administrative Citation Program. Their fines range from a minimum of \$100 to a maximum of \$1,000. They cite for both the use of illegal fireworks and the illegal use of legal fireworks. They contract for both the hearing officers and collections company. The cost for a hearing averages \$42.50 an hour with the revenues collected outweighing the costs. In 2008, the City collected \$32,313.80 from this program.

What will be eliminated from budget should any or all of these options be approved by the City Council?

The Finance Department has indicated that they are not able to determine what items would be eliminated until they know what, if any, options are approved by the City Council.