



CITY COUNCIL AGENDA REPORT

MEETING DATE: APRIL 20, 2010

ITEM NUMBER:

SUBJECT: REQUEST OF COUNCIL MEMBER MONAHAN FOR CONSIDERATION OF PROPOSED CHANGES IN REGULATION OF FIREWORKS

DATE: APRIL 20, 2010

FROM: COUNCIL MEMBER GARY MONAHAN

PRESENTATION BY: COUNCIL MEMBER GARY MONAHAN

**FOR FURTHER INFORMATION CONTACT: THOMAS R. HATCH, ASSISTANT CITY MANAGER
KELLY SHELTON, EXEC. ASSIST. TO CITY
MANAGER**

RECOMMENDATION:

That the City Council provide direction.

BACKGROUND:

The City Council has received requests from five non-profit organizations requesting that the closing time for fireworks booths on July 4th be modified from 8:00 p.m. to 9:00 p.m. These organizations include Costa Mesa Pop Warner Football, Costa Mesa Boy's Basketball, Orange Coast College Foundation (Men's and Women's Basketball), Mika Community Development Corporation, and Estanica High School Golf (see Attachment 1). In these tough economic times, they indicate that based on their past experiences, there is an opportunity to increase their sales with a later closing time as many of their stands still have patrons in line when they are required to close down.

In addition, Costa Mesa Pop Warner Football, Orange Coast College Foundation (Men's and Women's Basketball) have included in their closing time modification request a request for the reversal of the City Council's April 19, 2004 (see Attachment 2) decision to prohibit the sale of "hand held devices" in particular, the sale of the Morning Glory product. They indicate that adding Morning Glories back into the sales line-up would have an even greater effect on their profits, along with those of other Costa Mesa non-profits. Sale of these devices has been phased out over a two-year period beginning in 2004.

Notification of this issue on the City Council agenda has been made to those requesting the modifications and to those non-profit organizations that sponsored fireworks stands in 2009.

ANALYSIS:

City of Costa Mesa Municipal Code Section 9-190 states (see Attachment 3):

Section 9-190(d) Prohibitions; state permit required states that “No person shall sell or offer for sale fireworks within the city unless such sale occurs between July 1st and 8:00 p.m. on July 4th, inclusive.”

Section 9-190(a) Prohibitions; state permit required states “No person shall discharge, sell or offer for sale, any fireworks within the city which are classified as dangerous fireworks, or wood core or metal core sparklers as those terms are defined by the California Health and Safety Code.

Council Policy 400-2 adopted by the City Council on May 18, 2009 (see Attachment 4) indicates that:

- “The sale of “spinners:” and similar fireworks and the sale of any fireworks that are intended to be “hand held” are prohibited. This prohibition shall be effective immediately for the sale of these devices individually or in homogeneous packages, and their sale within group packages containing an assortment of various fireworks devices shall be prohibited beginning in year 2006.....”
- “Fireworks sales to the public on 7/1 through 7/3 shall be limited to between the hours of 10:00 a.m. and 10:00 p.m. each day. On 7/4, fireworks sales to the public shall be limited to between the hours of 9:00 a.m. and 8:00 p.m.”

The Fire Chief and Police Chief have provided a memorandum for City Council consideration (see Attachment 5). The memorandum identifies the following concerns relative to the requested changes:

- Sunset on July 4, 2010 occurs at approximately 8:09 p.m. with darkness ensuing at 9:13 p.m. By extending the time of sale until 9:00 p.m., some residents and non-residents will be encouraged to drive their vehicles well into the dark hours of July 4 either to purchase last-minute devices or to restock on fireworks devices.
- Visibility on and adjacent to City streets is severely hampered by darkness combined with lingering smoke clouds created by the ignition of fireworks devices.
- Darkness and decreased visibility, created by lingering smoke, combined with increased traffic activity may lead to an increase in vehicle vs. pedestrian accidents, an increase in vehicle vs. vehicle accidents and an increase in the response time of emergency personnel.
- Alcoholic beverage consumption is common to 4th of July celebrations and extended sales hours would likely increase the number of alcohol impaired motorists driving to restock firework devices, in darkness and decreased visibility, which may result in an increase in both vehicle vs. pedestrian and vehicle vs. vehicle accidents. By keeping the time restrictions as they are will encourage people to be in their locations before dark and discourage driving in less than ideal conditions.

- Sparklers are responsible for the vast majority of legal fireworks-related injuries. The most common situation for injuries occurs when lit sparklers are given to unsupervised children, many of whom may not understand the risks. The devices burn at high temperatures, as hot as 1800°F to 3000°F depending on the fuel and oxidizer used, and are more than sufficient to cause severe skin burns or ignite clothing.
- Nearly half of all fireworks related injuries are sustained by children under the age of 15. Over half of fireworks related injuries sustained by children under the age of 5 are caused by sparklers. Sparklers cause more injuries to children under the age of 5 than any other type of firework device. Sparklers, fountains and novelties accounted for 36% of emergency room visits from firework devices in 2007.

Survey of Cities:

A survey including the four cities in Orange County that still allow safe and safe fireworks was conducted to see where they stand on the above two issues. The hand-held devices are described as those devices that have been deemed safe and sane by the State Fire Marshall.

<u>CITY</u>	<u>Closing Time – 4th of July</u>	<u>Hand-Held Devices Sold</u>
City of Santa Ana	8:00 p.m.	Yes
City of Garden Grove	10:00 p.m.	Morning Glories Only
City of Stanton	10:00 p.m.	Yes
City of Buena Park	8:00 p.m.	Yes

ALTERNATIVES CONSIDERED:

No alternatives proposed.

FISCAL REVIEW:

No Fiscal Review required.

LEGAL REVIEW:

If the City Council provides staff direction to move forward with the requested changes, the City Attorney would be required to review the revision to the current Fireworks Ordinance.

CONCLUSION:

The attached memorandum from the Fire Chief and Police Chief identifies concerns and potential risks from authorizing the extension of the time for fireworks sales on the 4th of July and the sale of hand-held devices. The Police Department is currently operating twelve sworn positions below its authorized strength. The Fire Department is undergoing reduction to its minimum staffing levels. Both Departments do not have overtime allocated to handle the increased workload as it relates to these requested changes.

It is recommended that the City Council consider the reduced staffing levels, the recommendation from the Fire Chief and Police Chief, the results of the survey, the requests from the user groups and provide direction to staff.

If the City Council approves the modification(s) requested, both Council Policy 400-2 and Ordinance 04-5 would require revisions and approval at the next City Council meeting to be effective prior to this 4th of July holiday.

KELLY R. SHELTON
EXECUTIVE ASSISTANT TO THE
CITY MANAGER

THOMAS R. HATCH
ASSISTANT CITY MANAGER

- ATTACHMENTS:
- 1 [Request Letters](#)
 - 2 [April 19, 2004 Staff Report](#)
 - 3 [Ordinance 04-5](#)
 - 4 [Council Policy 400-2](#)
 - 5 [Memorandum from Fire Chief and Police Chief](#)