



**CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT**

5/26/2020

SUBJECT:

Update from City Manager on Planned Changes to Certain 4th of July Activities and Consideration of and Direction to Staff on Whether to Allow Safe and Sane Fireworks Sales in 2020

RECOMMENDED ACTION:

1. Receive Update from City Manager on Planned Changes to Certain 4th of July Activities for the following:
 - Prohibit block parties on or around July 4, 2020;
 - Prohibit the discharge of Safe and Sane Fireworks on all City public off-street parking facilities on or around July 4, 2020;
 - Cancel Parks, Beaches and Recreation Department July 4th group activities/gatherings; and
 - Prohibit discharge of Safe and Sane Fireworks on all portions of Linda Mar Beach.
2. Discuss and provide direction to the City Manager on whether to allow sales of Safe and Sane Fireworks in 2020 and possible requirement health safeguards at fireworks sales booths.

STAFF CONTACT:

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BACKGROUND /DISCUSSION:

Emergency Authority

On March 2, 2020, the Governor of the State of California declared a State of Emergency related to the COVID-19 pandemic. On March 16, 2020, the City Manager, acting as the Director of Emergency Services, issued a Proclamation of local emergency due to the COVID-19 pandemic. That Proclamation was ratified by the City Council on March 18, 2020, by Resolution No. 18-2020. On March 19, 2020, Governor Newsom issued Executive Order No. 33-20, ordering all Californians to shelter at home. The San Mateo County Health Officer has also issued a new Shelter in Place Order dated May 15, 2020.

Government Code Section 8630 and Section 4-2.05 of the Pacifica Municipal Code (“PMC”) designates the City Manager as the Director of Emergency Services and PMC 4-2.05(a) empowers the Director of Emergency Services to proclaim the existence or threatened existence of a local emergency where actual or threatened conditions of disaster or peril to safety, that are likely to be beyond the control of the services, personnel, equipment, and facilities of this city, requiring the combined forces of other political subdivisions to combat, including epidemics.

Government Code Section 8634 and PMC Section 4-2.06(a) provide that when in a local emergency, the City Manager, acting in his capacity as Director of Emergency Services, may make and issue rules and regulations necessary to provide for the protection of life and property. Such rules must be ratified by the Council at the earliest practicable time.

July 4th Activities

Pacifica Municipal Code Title 4, Chapter 3, Article 2 relating to fireworks allows the sales of “Safe and Sane Fireworks”, as that term is defined, in Pacifica through a permitting process outlined in Title 4, Chapter 3, Article 2 (PMC section 4-3.201 et seq.) and Administrative Policy No. 68. Each year, sales of fireworks are allowed between June 28th and July 4th. Up to 15 non-profit groups may receive permits from the City to sell fireworks. Proceeds from the sales are used to fund activities for the non-profit groups. A fee is collected for the Firework Sales Permit which includes 8% of gross receipts from the sales of Safe and Sane fireworks is collected, which is used to off-set City costs related to July 4th activities.

PMC section 4-3.203(b)(5) also states the discharge of Safe and Sane fireworks is prohibited upon, over, or onto any beach within the City except for that designated portion of beach immediately west of the north Pacifica State Beach/Linda Mar Parking Lot located at 5150 Coast Highway, to approximately ten (10') feet east of the tide line and immediately north of the property located at 5200 Coast Highway to the prolongation of the north end of the north Pacifica State Beach/Linda Mar Parking Lot. Each July 4th, hundreds of community members and visitors from outside of Pacifica come to this portion of Pacifica State Beach to discharge Safe and Sane Fireworks.

Though not required by the PMC, on July 4th, the City closes the pump station parking lot just south of the main Pacifica State Beach parking lot as well as the south Rockaway Beach parking lot (known as the “Surfer’s Lot”). The public is allowed to discharge Safe and Sane fireworks in these parking lot locations, while they are closed. These locations also attract many people who gather to ignite Safe and Sane fireworks.

Each year, the Pacifica Department of Parks, Beaches and Recreation hosts two July 4th events. The first, the Rocket Run, is a 5-mile run that starts and finishes at the Pacifica Community Center. The second event is a family July 4th celebration held at Frontierland Park. By nature, these events gather large numbers of community members in one location to participate.

Pacifica Police Department also receives a number of applications each year for block party permits which allow neighborhood streets to be closed for community gatherings.

COVID-19 Concerns

State and County Orders relating to the Covid-19 crisis are designed to keep the overall volume of person-to-person contact very low to prevent a surge in COVID-19 cases in the County and neighboring counties. Since the issuance of these State and County Orders, the City has taken steps to protect the health of the community and City employees by scaling back operations to essential services, and enforcing these Orders within the business community and areas where people recreate.

Safe and Sane fireworks are sold from booths erected on private properties such as business parking lots. These booths are staffed with volunteers from non-profits groups who sell fireworks. At times, several people may be working in a booth with a small crowd of people waiting to purchase fireworks. The number of people patronizing a booth often increases as July 4th approaches, especially on the day of July 4th. Health related concerns regarding the sales of Safe and Sane fireworks include the ability of non-profit groups to conduct sales while physical distancing in close quarter sales booths, as well as the ability to assure physical distancing of customers.

On the evening of July 4th, families and groups gather in community neighborhoods and in parking lots to celebrate and discharge fireworks. Safe and Sane fireworks may be seen in many neighborhoods as part of the celebration. COVID-19 health-related concerns could arise if applicable health orders are not being followed regarding neighborhood gatherings, which often center around the discharge of Safe and Sane fireworks. The sale of Safe and Sane fireworks this July 4th season could also be viewed as contributing to gatherings in neighborhoods that might be contrary to the health orders which require social distancing and prohibit gatherings of any number of people occurring outside a single household or living unit. However, it is noted that many of these gatherings that occur in neighborhoods consist of family members on their driveways, enjoying food, drink and Safe and Sane fireworks. A gathering of family members from a single household would not be a violation of State or County Orders. It is also noted that even if the sale of Safe and Sane fireworks is prohibited in Pacifica, gatherings and discharge of Safe and Sane fireworks purchased elsewhere could still occur in Pacifica.

In previous years, an average of 5 neighborhoods apply for block party permits to close their streets for large neighborhood gatherings. Staff believes encouraging block parties by issuing permits for this activity this year is in direct conflict with the current State and County Orders designed to prevent large gatherings.

As a result of the COVID-19 crisis and the health and safety concerns relating to some of the activities which will draw crowds, the City Manager intends to make the following changes to the typical 4th of July Activities allowed in the City:

- Prohibit block parties on or around July 4, 2020;
- Prohibit the discharge of Safe and Sane Fireworks on all City public off-street parking facilities on or around July 4, 2020;
- Cancel Parks, Beaches and Recreation Department July 4th group activities/gatherings; and
- Prohibit discharge of Safe and Sane Fireworks on all portions of Linda Mar Beach.

The City Manager will implement some of these changes through the issuance of an Order under his authority as Director of Emergency Services operating under the Proclamation of Local Emergency, pursuant to PMC section 4-2.06(a). Any such Order issued by the City Manager would be subject to Council ratification and would likely to be considered by Council at the June 8 City Council meeting.

In addition to the foregoing actions, City staff is seeking direction on whether the Safe and Sane Fireworks Sales Permit program should be allowed to proceed this year. A prohibition on the sale of Safe and Sane fireworks this year could be a safety precaution to protect members of non-profit groups selling fireworks as well as customers from transmitting COVID-19 in what is normally a crowded environment. In addition, the absence of fireworks may reduce the number

of gatherings in neighborhoods where the focal point is often fireworks. A reduction in the number and size of gatherings could assist in reducing the spread of COVID-19. However, even if Safe and Sane fireworks sales are prohibited in Pacifica, customers may still purchase fireworks in San Bruno and ignite them in Pacifica. Staff believes if this is the case, the amount of Safe and Sane fireworks being discharged in Pacifica will likely be less as the convenience of local purchase will not be available.

On the other hand, should Council desire to continue with Safe and Sane Fireworks Sales Permit program for 2020, the City Manager recommends setting regulations for physical distancing in sales booths and in lines at booths which are consistent with the County Health Order with the penalty of non-profit groups having their sales permits revoked if they do not comply. Regulations issued by the City Manager will include, but not be limited to, the following:

- Signage on fireworks booths instructing customer to physically distance at least 6 feet
- Fireworks booths staffing level to allow for 6 foot physical distancing in workspace
- Hand sanitizer available for fireworks booth staff
- Fireworks booth staff and customers will wear face coverings at all times
- Tape or other markings placed on the ground 6 feet apart to encourage customer physical distancing
- At least one fireworks booth staff member will remain outside of the booth to direct customers and assure physical distancing is occurring

These regulations will be set forth in an Order issued by the City Manager pursuant to his authority under PMC 4-2.06(a) if Council desires to continue with the Safe and Sane Fireworks Sales Permit program for 2020.

If Safe and Sane fireworks sales are prohibited this season, the negative effect is primarily financial. Representatives of the non-profit groups have stated that fireworks sales provide the majority of the funding their groups need to operate. Prohibiting the sales of fireworks would cause these non-profit groups to lose what they have described as a major source of revenue unless they were to figure out alternative fund-raising strategies.

The City of Pacifica imposes a Fireworks Sales Permit fee which includes 8% of gross receipts from the sales of Safe and Sane fireworks collected. Over the last five years, the average revenue received from this 8% fee is \$33,000. This revenue is used to recoup the costs associated with the July 4th festivities in Pacifica. The majority of City costs associated with July 4th are related to personnel overtime. The Police Department, North County Fire Authority and Department of Public Works deploy additional personnel on July 4th to handle increased calls for service, increased fire danger due to fireworks activity (Safe and Sane and illegal fireworks), and increased need to service public facilities. Over the last five years, City costs associated with July 4th operations average \$35,000/year. Prohibiting the sales of fireworks this year would cause the City to lose a revenue source that almost recoups the costs associated with July 4th. Without the sales of Safe and Sane fireworks, overtime personnel costs would still occur due to the necessary response to illegal fireworks that are prevalent on July 4th.

Bay Area Response

In the 9 Bay Area counties, several other jurisdictions that allow the sale and discharge of Safe and Sane fireworks. The only other jurisdiction in San Mateo County that allows Safe and Sane fireworks is San Bruno. As of the writing of this report, they plan to continue with the sales of

Safe and Sane Fireworks provided it is not prohibited by State or County Orders in effect at the time of sales.

Staff contacted 10 Bay Area jurisdictions who normally allow Safe and Sane fireworks regarding their intent to allow fireworks sales. Their responses were as follows:

- (4) plan to allow fireworks sales, providing no State or County Health Order prohibit the activity
- (1) has decided to cancel their fireworks sales due to COVID-19 concerns
- (5) have not decided if they will allow sales due to COVID-19 concerns

ALTERNATIVE ACTION:

None

RELATION TO CITY COUNCIL GOALS AND WORK PLAN:

Addressing the issue of COVID-19 health concerns as they relate to July 4th activities and potential fiscal impacts address City Council goals of *Maintaining a Safe Community, a Healthy and Compassionate Community and Fiscal Sustainability*.

FISCAL IMPACT:

Prohibition of Safe and Sane fireworks sales would result in the loss of the 8% public safety fee on gross receipts, averaging \$33,000 per year over the last 5 years and other fees relating to the Fireworks Sales Permit. Prohibiting Safe and Sane fireworks sales would result in the refund of \$787 in fees for each booth that has already been paid to the City.

ORIGINATED BY:

Police

ATTACHMENT LIST:

None (TXT)