



# CITY OF BUENA PARK

OFFICE OF THE MAYOR

July 17, 2008

The Honorable Nancy Wieben Stock  
Presiding Judge of the Superior Court  
700 Civic Center Drive West  
Santa Ana, CA 92701

Dear Judge Wieben Stock:

This letter is in response to the 2007-2008 Orange County Grand Jury Report entitled "The Anatomy of Safe and Sane Fireworks Sales in Orange County." Staff has been working with the Mayor in order to provide these responses. The Mayor was asked to respond to Findings F-1 through F-13 and Recommendation R-1 through R-9.

**FINDING F-1: Not all cities that allow the sale of legal fireworks require applicants to show proof of a valid Seller's Permit issued by the State of California Board of Equalization.**

**RESPONSE:** *We agree with this finding.*

**FINDING F-2: Cities have varying requirements for legal fireworks applicants' liability amounts that need to be re-examined for appropriate coverage.**

**RESPONSE:** *We agree with this finding*

**FINDING F-3: Cities do not require legal fireworks sellers to file a post-sales report to the city documenting gross and net sales of fireworks detailing the manner and in what amounts the net profits are spent to benefit the community and ensuring that the cities receive their one percent share of the sales tax.**

**RESPONSE:** *We agree with this finding. In Buena Park the application itself requires the applicant to provide a proposed distribution of all gross sales.*

**FINDING F-4: Cities do not provide sufficient information and encouragement to fireworks sellers to seek other methods of fundraising.**

**RESPONSE:** *We disagree with this finding. It is not the responsibility of municipal government to provide information to non-profit and community based organizations on how to raise funds for community purposes. However, other methods of fundraising have been sought but none would come close to deriving the proceeds generated over a period of three to four days.*

**FINDING F-5:** **Some cities are reluctant to put the issue of legal fireworks sales to the voters in their cities.**

**RESPONSE:** *We disagree with this finding. In 2003, the Buena Park City Council enacted a ban on fireworks sales, but it never went into effect. Residents challenged the ban and forced the issue onto the ballot in March 2004. The residents repealed the ban by a vote of 6,879 to 4,536, making the discharge of 'safe and sane' fireworks legal again.*

**FINDING F-6:** **Some cities are reluctant to sponsor free public displays of fireworks or to solicit sponsoring partners from businesses or neighboring cities in lieu of the sale of fireworks.**

**RESPONSE:** *We agree with this finding. In Buena Park we do not sponsor free public display. Buena Park has participated in these types of events in the past. Knott's Berry Farm offers a fireworks display each year that has filled this void. At this time, we see no need to duplicate efforts. In addition, the city does not have the money or means to provide a public display and provide firework enforcement through our Police Department. Virtually every police officer and vehicle are on the street each 4<sup>th</sup> of July.*

**FINDING F-7:** **Fireworks sellers do not share the financial burden of added law enforcement, fire safety and public works costs incurred by cities, in large part due to the sale of legal fireworks.**

**RESPONSE:** *We disagree with this finding. In Buena Park each fireworks seller is required to pay a permit fee of \$1,000. This fee offsets most costs associated with the sale and enforcement due to the sale of legal fireworks.*

**FINDING F-8:** **Cities do not require fireworks sellers to advise all purchasers that it is illegal to detonate legally sold fireworks in any area of Orange County other than in the incorporated city limits of Buena Park, Costa Mesa, Garden Grove, Santa Ana, and Stanton.**

**RESPONSE:** *We agree with this finding. The City of Buena Park does not require firework sellers to advise purchasers that it is illegal to detonate legally sold fireworks in any area of Orange County other than in the incorporated limits of Buena Park, Costa Mesa, Garden Grove, Santa Ana and Stanton. However, many fireworks sellers do voluntarily provide this information to purchasers.*

**FINDING F-9:** Safety officials cannot enforce all laws and municipal ordinances regarding the illegal use of fireworks due to the large volume of activity on the Fourth of July.

**RESPONSE:** *We agree with this finding. It is difficult to enforce all laws and municipal ordinances regarding the illegal use of legal fireworks due to the large volume of activity on the 4<sup>th</sup> of July.*

**FINDING F-10:** The use of illegal fireworks is significantly greater in cities that allow the sale of legal fireworks.

**RESPONSE:** *We agree with this finding. Some estimate that the population of Buena Park doubles on the 4<sup>th</sup> of July because fireworks are permitted.*

**FINDING F-11:** The use of fireworks can mask the use of illegal fireworks.

**RESPONSE:** *We agree with this finding.*

**FINDING F-12:** Safety officials are of the opinion that legal fireworks sales should be banned in the interest of public safety.

**RESPONSE:** *We disagree in part with this finding. However, due to the residents repealing the ban of the City Council in 2004, the city feels somewhat limited as far as options.*

**FINDING F-13:** Safety officials can significantly curb the use of illegal fireworks in these cities within three years if the sale of legal fireworks were banned.

**RESPONSE:** *We agree with this finding.*

**RECOMMENDATION R-1:** Require all fireworks applicants, as part of the permit application process, to show proof of a valid Seller's Permit issued by the California Board of Equalization.

**RESPONSE:** *This recommendation has been implemented. Buena Park does currently require proof of a valid Seller's Permit issued by the California Board of Equalization and this recommendation has been implemented.*

**RECOMMENDATION R-2:** Require all fireworks applicants, as part of the permit application process, to show proof of current liability insurance in amounts not less than \$1,000,000.

**RESPONSE:** *This recommendation has been implemented and has been a requirement for quite some time.*

**RECOMMENDATION R-3:** Require all fireworks applicants to file an accurate after-sales financial report with the city documenting gross sales and net profits of fireworks detailing the manner and amount in which the net profit is spent to benefit the community.

**RESPONSE:** *This recommendation will not be implemented because it is not reasonable. Buena Park would not recommend applicants file an accurate after-sales financial report documenting sales and profits. Buena Park feels as though these types of reports would be intrusive and profits made while fundraising should be spent however these agencies see fit. The city does not have the right to tell organizations how to spend their money.*

**RECOMMENDATION R-4a:** Require all fireworks applicants, as part of the permit application process, to file a detailed accounting of additional fundraising efforts conducted over the course of the previous year other than fireworks sales.

**RESPONSE:** *This recommendation will not be implemented because it is not reasonable. It is not the responsibility of municipal government to monitor the fund raising efforts of community nonprofit organizations. Providing this information would not assist in deterring illegal use of fireworks or condone public safety.*

**RECOMMENDATION R-4b:** Encourage cities to become more proactive in encouraging and fireworks applicants to find other fundraising options, in lieu of fireworks sales.

**RESPONSE:** *This recommendation will not be implemented because it is not reasonable. The fact of the matter is there is significant profit in the sale of fireworks. Unfortunately, no other fundraising efforts come close to the profits gained from fireworks sales. In addition, it is not the responsibility of local government to advise community groups on fundraising efforts.*

**RECOMMENDATION R-5:** Let the issue of legal fireworks sales be decided by the voters in each city.

**RESPONSE:** *This recommendation has been implemented. Buena Park would recommend letting the issue of fireworks sales be decided by the voters in each city. In fact, Buena Park has already done this. See Finding #5.*

**RECOMMENDATION R-6:** Invite area businesses, civic groups and/or neighboring communities to join with the city to sponsor a public fireworks display in lieu of fireworks sales.

**RESPONSE:** *This recommendation has been implemented. One of our private businesses in town, Knott's Berry Farm, currently provides a fireworks display. Unfortunately, this has not deterred individuals from misusing legal or illegal*

*fireworks. In fact, some would argue that the public display has led to an increase in illegal fireworks use.*

**RECOMMENDATION R-7: Increase the permit fee to offset the extra costs of law enforcement services, fire services and public works services in the enforcement of municipal codes and subsequent clean-up of debris of fireworks detonation in public areas.**

**RESPONSE:** *This recommendation has been implemented. Buena Park would recommend an increase to the permit fee only if justified from a cost recovery standpoint. The permit fees have steadily increased to offset enforcement and clean up.*

**RECOMMENDATION R-8: Require all fireworks sellers to advise all purchasers both verbally and in written form that it is illegal to detonate legally purchased fireworks in any area of Orange County, other than in the incorporated city limits of Buena Park, Costa Mesa, Garden Grove, Santa Ana and Stanton.**

**RESPONSE:** *This recommendation has not yet been implemented but will be implemented for 2009. Each year the Buena Park Police Department supplies a flyer to fireworks sellers outlining local laws related to fireworks sales and discharge. In the future, this language will be included and discussed with fireworks vendors prior to sale to the public.*

**RECOMMENDATION R-9: Declare a moratorium of fireworks sales for at least three or more consecutive years in the cities of Buena Park, Costa Mesa, Garden Grove, Santa Ana and Stanton to allow law enforcement and fire officials in these cities the opportunity to curb the escalating use of illegal fireworks activity.**

**RESPONSE:** *This recommendation will not be implemented because it is not reasonable. Buena Park would support reasonable efforts to curb illegal use of fireworks but we are not sure how a moratorium now would prevent illegal use in the future. In addition, a moratorium would legally conflict with the vote of the citizens that repealed the City Council ban on fireworks back in 2004.*

Thank you and please feel free to contact our office at 714-562-3550 should you have any questions.

Respectfully,



Jim Dow  
Mayor