



CITY OF GARDEN GROVE

July 21, 2008

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

(714) 741-5104

William J. Dalton
Mayor

Mark Rosen
Mayor Pro Tem

Dina Nguyen
Council Member

Bruce A. Broadwater
Council Member

Steven R. Jones
Council Member

Dear Judge Wieben Stock:

I have reviewed the 2007-2008 Orange County Grand Jury report, "The Anatomy of Safe and Sane Fireworks Sales in Orange County." After studying the report findings and recommendations, I am pleased to provide my responses to Findings F-1 through F-13 and Recommendations R-1 through R-9 as requested by the Grand Jury.

Response to Findings

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.

I disagree wholly with this finding. Since 2000, Garden Grove has required all applicants to show proof of a valid State Board of Equalization Seller's Permit displaying Garden Grove as the fireworks stand location. I do not know what cities other than Garden Grove require.

F-2 Cities have varying requirements for legal fireworks applicant's liability insurance amounts that need to be re-examined for appropriate coverage.

I agree with this finding. The Grand Jury report cites varying insurance amounts ranging from \$100,000 up to \$1 million. For the past several years, Garden Grove's practice has been to require liability insurance in the amount of \$1 million.

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.

I disagree wholly with this finding. Garden Grove has required all legal fireworks sellers to file post-sales reports with the City since 2000. Sellers must document gross and net sales and declare how the revenue they received was spent. The financial statement also specifies the amount of sales tax paid to the State Board of Equalization. The financial statement from the previous year is a prerequisite for application approval for the following year. Part of the Fireworks Application packet is an affidavit signed by the fireworks stand manager stating that all profits accruing from the sale of fireworks will go to the non-profit community group represented.

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

I disagree wholly 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. Moreover, in Garden Grove there is a long and valued tradition of celebrating Independence Day with safe and sane fireworks. Many of our residents look at safe and sane fireworks as a way of outwardly displaying their patriotism and commemorating the birth of our great nation. Seeking this end by allowing worthy non-profit groups to fundraise is not at all inappropriate.

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

I disagree with the use of the term "reluctant", in this finding. Initially, I note that the State of California has determined that the use of safe and sane fireworks is sufficiently safe to allow local communities to permit their use. A range of factors must be considered when determining whether to place items before the voters, including the potential cost of elections, the likely outcome of such an election (based upon the results of similar elections in other communities), the perceived divisiveness of the matter, and the extent to which the matter is of significant community concern as compared with other issues. Candidates for the City Council are elected based upon their positions on various issues, including the sale and use of legal safe and sane fireworks. Therefore, the voters have direct input on this matter. Based upon these factors, there does not appear to be a compelling reason to place this particular matter on the ballot.

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.

I disagree wholly with this finding. One reason Garden Grove allows the use of legal safe and sane fireworks is that there is not a viable venue in the City for a public fireworks display. When the City celebrated its fiftieth

anniversary with a one-time fireworks display in 2006, approximately 2000 residents were in attendance. This was a challenging but manageable number for the event at Garden Grove Park/Bolsa Grande High School, given space and parking availability. This would not be the case, if the City were to hold an event on the Fourth of July in lieu of the sale of legal safe and sane fireworks.

Garden Grove has 172,000 residents, and if safe and sane fireworks were illegal, many thousands of these residents would participate in the public fireworks display as a replacement for home safe and sane fireworks celebrations. There is no single public park or school facility in the City that could sufficiently accommodate a gathering of such a substantial size. In addition, concentrating a large group of people in an inadequate area raises other questions of safety for Police, Fire and the general public.

F-7 Firework 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.

I disagree wholly with this finding. Garden Grove presently charges a \$500 permit fee, which is used for costs associated with the sale of legal safe and sane fireworks.

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.

I agree with this finding. Safe and Sane firework sellers in Garden Grove do provide information to all purchasers regarding what fireworks are legal and illegal in Garden Grove.

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

I agree with this finding. To ease this burden, however, in 2007, the City Council passed an ordinance placing an administrative citation process into effect as a tool to deal with illegal fireworks. This ordinance gave Police officers the ability to issue administrative citations with fines up to \$1,000 to anyone caught using illegal fireworks.

To make sure everyone is aware of the rules, the City launched a full-scale awareness campaign, via banners, signs, and media coverage. On July 4, 2007, and the days immediately preceding and following, 151 citations were issued. On July 4, 2008, the second year of the city's aggressive

enforcement policy, 67 citations were issued. Along with the 55% drop in citations issued, the City's Police and Fire staff observed a dramatic reduction in the use of illegal fireworks. As the City continues its awareness campaign and aggressive enforcement policy regarding illegal fireworks, it is anticipated the use of illegal fireworks will continue to significantly diminish.

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

I disagree wholly with this finding. The use of illegal fireworks has increased substantially throughout the County, including in cities that prohibit all fireworks. Garden Grove has implemented an aggressive enforcement program, as described in F-9 above, to address this issue.

F-11 The use of legal fireworks can mask the use of illegal fireworks.

I agree with this finding. However, given the availability of fireworks on the internet and from other means, I view enforcement as the best approach to minimizing the use of illegal fireworks, not punishing law abiding citizens who use legal safe and sane fireworks. Garden Grove has implemented an aggressive enforcement program, as described in F-9 above, to address this issue.

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

I agree with this finding. Safety officials are trained to provide the highest level of safety to the public. It is the responsibility of elected officials to balance the need for absolute public safety with the community interest in exercising its right to celebrate July 4 and the freedoms we enjoy.

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.

I disagree wholly with this finding. There is no evidence of a correlation between a three-year time period and the ability to "significantly curb" the use of illegal fireworks. Many factors in addition to time can either contribute to or impede the ability to curb illegal firework use. In 2007, the City enacted an ordinance and began actively enforcing administrative fines against those who use illegal fireworks. We are optimistic that through these efforts, we can maintain the rights of our citizens to use legal safe and sane fireworks and also curb the use of illegal fireworks.

Response to Recommendations

- 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.*

This recommendation has been implemented. As described above under finding F-1, Garden Grove has in fact required all applicants to show proof of a valid Seller's Permit issued by the State of California Board of Equalization since 2000.

- 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.*

This recommendation has been implemented. As explained above under finding F-2, for the past several years, Garden Grove's practice has been to require liability insurance in the amount of \$1 million.

- 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.*

This recommendation has been implemented. As expressed above under finding F-3, the City of Garden Grove requires all safe and sane fireworks sellers to file a post-sales report to the City documenting gross and net sales and declaring how the revenue they received was spent to benefit the community. This condition has been in place since 2000.

- 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.*

The recommendation will not be implemented because it is not reasonable. As explained under F-4 above, it is not the responsibility of municipal government to monitor the fund raising efforts of community non-profit organizations. Moreover, in Garden Grove there is a long and valued tradition of celebrating Independence Day with safe and sane fireworks. Many of our residents look at safe and sane fireworks as a way of outwardly displaying their patriotism and commemorating the birth of our great nation. Seeking this end by allowing worthy non-profit groups to fundraise is not at all inappropriate.

- R-4b Encourage cities to become more pro-active in encouraging firework applicants to find other fundraising options, in lieu of fireworks sales.*

The recommendation will not be implemented because it is not reasonable. It is not the responsibility of municipal government to advise community non-profit organizations on fund raising matters.

R-5 Let the issue of legal fireworks sales be decided by the voters in each City.

The recommendation will not be implemented because it is not warranted. Initially, I note that the state of California has determined that the use of safe and sane fireworks is sufficiently safe to allow local communities to permit their use. As indicated previously, a number of factors must be considered when determining whether to place items before the voters, including the potential cost of elections, the likely outcome of such an election (based upon the results of similar elections in other communities), the perceived divisiveness of the matter, and the extent to which the matter is of significant community concern as compared with other issues. Candidates for the City Council are elected based upon their positions on various issues, including the sale and use of legal safe and sane fireworks. Therefore, the voters have direct input on this matter. Based upon these factors, there does not appear to be a compelling reason to place this particular matter on the ballot.

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.

The recommendation will not be implemented because it is not warranted. One reason Garden Grove allows the use of legal safe and sane fireworks is that there is not a viable venue in the City for a public fireworks display. When the City celebrated its fiftieth anniversary with a one-time fireworks display in 2006, approximately 2000 residents were in attendance. This was a challenging but manageable number for the event at Garden Grove Park/Bolsa Grande High School, given space and parking availability. This would not be the case, if the City were to hold an event on the Fourth of July in lieu of the sale of legal safe and sane fireworks.

Garden Grove has 172,000 residents, and if safe and sane fireworks were illegal, many thousands of these residents would participate in the public fireworks display as a replacement for home safe and sane fireworks celebrations. There is no single public park or school facility in the City that could sufficiently accommodate a gathering of such a substantial size. In addition, concentrating a large group of people in an inadequate area raises other questions of safety for Police, Fire and the general public.

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

This recommendation will not be implemented because it is not warranted. Garden Grove presently charges a \$500 permit fee, which is used for costs associated the sale of legal safe and sane fireworks.

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.

The recommendation will not be implemented because it is unwarranted. Cities other than Buena Park, Costa Mesa, Garden Grove, Santa Ana, and Stanton engage in information campaigns to remind their residents not to use legally purchased safe and sane fireworks in their communities.

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.

This recommendation will not be implemented because it is not reasonable. There is no evidence of a correlation between a three-year time period and the ability to "significantly curb" the use of illegal fireworks. In 2007, the City enacted an ordinance and began actively enforcing administrative fines against those who use illegal fireworks. We are optimistic that through these efforts we can maintain the rights of our citizens to use legal safe and sane fireworks and also curb the use of illegal fireworks.

Thank you for the opportunity to respond to the Grand Jury's report.

Sincerely,



WILLIAM J. DALTON
Mayor