

Agenda Report

DATE: June 6, 2005

TO: CITY COUNCIL

THROUGH: LEGISLATIVE POLICY COMMITTEE

FROM: CITY MANAGER

SUBJECT: ADOPTION OF A RESOLUTION IN OPPOSITION TO AB 1295 (Bermudez) REGARDING EFFORTS TO ALLOW THE SALES OF FIREWORKS TO THE GENERAL PUBLIC FOR NEW YEARS

RECOMMENDATIONS

It is recommended that the City Council:

1. Adopt a resolution in opposition to Assembly Bill 1295 (Bermudez) which will allow for the sales of fireworks to the general public during the New Years holiday season; and,
2. Authorize the Mayor to send correspondence to actively advocate the City's opposition.

SUMMARY

Consumer fireworks may currently be sold within California during one week before the July 4th holiday, but are illegal in Pasadena at all times. Fireworks seized at any time are required to be destroyed by the State Fire Marshal. This legislation proposes the creation of a fund to pay for the destruction of fireworks seized throughout the State, but does so, in part, by creating a second period of fireworks sales to the general public during the New Years holiday season. Because the general public does not recognize that fireworks can only be used in a few cities in Southern California, it is inevitable that fireworks will appear along the Rose Parade route and at other local New Years celebrations with the potential for significant public disruption and damage. AB 1295 (Bermúdez) has passed the Assembly Committee on Government Organization and is currently pending before the Appropriations Committee.

BACKGROUND

Existing State law requires that the State Fire Marshal dispose of all fireworks seized within the State, whether by State or local officials. The State budget has not appropriated more than a token amount of funding for this disposal, if any. Recent bureaucratic changes in the application of specific regulations has forced the State Fire Marshal to comply with significantly increased regulatory requirements for this disposal and, as a direct result, significantly increased disposal costs.

AB 1295, introduced by Assembly Member Bermúdez, creates a fund for the State Fire Marshal by imposing an unspecified fee on fireworks retailers, manufacturers, and importers. To offset an arguable 5-15% decrease in anticipated sales as a result of the new fees, the bill proposes to increase the annual amount of time fireworks may be sold to the general public by adding the week before New Years to the existing sales period around the Fourth of July.

A recent study by the National Fire Protection Association, titled "Fireworks-Related Injuries, Deaths and Fires", shows that nation-wide fireworks-related injuries have increased since 1996 when there were approximately 7,000 injuries. By 2002 that number had grown to 8,800 with a spike in the year 2000 of 11,000 injuries. This spike is directly attributed to the Millennium New Year's celebrations when many states, including California, experimented with the expanded sale of fireworks. Other findings of the report include that "safe and sane" fireworks caused more injuries than illegal fireworks, especially to preschool children. In 2002, sparklers and fountains alone accounted for 40.7% of emergency room fireworks injuries, including the majority of injuries to preschool children and grade school children up to age 14, where the type of fireworks device was specified. In 1999, there were 9 reported structure fires in the U.S. at fireworks retail outlets. Risks exist wherever fireworks are manufactured, transported, or stored.

As of the date of the analysis prepared for the April 20, 2005, hearing before the Assembly Committee on Government Organization, the sole sponsor of this bill was American Promotional Events, Inc., a major distributor of consumer fireworks. The League of California Cities (Attachment A), California Fire Chiefs Association, California State Firefighters' Association, Fire Districts Association of California, and eight cities were in opposition to this Bill.

The City has prohibited the use of fireworks by the general public for many years. It is not anticipated that the City will allow sales during New Years even if this Bill becomes law. However, because the general public does not recognize that fireworks can only be used in a few cities in Southern California, it is inevitable that fireworks will appear along the Rose Parade route and at other local New Years celebrations, as they appear in Pasadena around the Fourth of July.

AB 1295 passed the Assembly Committee on Government Organization on an 8-3 vote and is currently pending before Appropriations Committee.

ARGUMENTS FOR AND AGAINST

Arguments in support: American Promotional Events, Inc., a major distributor of consumer fireworks argues that this bill reflects a commitment to safety and an understanding that fireworks can and should be handled responsibly. They have invested in educational programs and worked on strict regulations to ensure fireworks are handled safely.

They cite that in the year 2000, 100% of the reported fire losses in 54 cities and 34 communities, totaling \$519,869, were caused by illegal fireworks, not state-approved fireworks. The sponsors cite that 37 other states allow for New Year's fireworks and that 23 states allow for fireworks to be used year round. Also, they argue that the decision to offer fireworks for sale and the hours in which fireworks may be used between December 26 and January 1 rests with local government.

AB 1295 creates the "State Fire Marshal Dangerous Fireworks Management Fund" for the deposit of increased fees on retail stands, wholesalers, and importers. This will allow organizations to assist in raising funds to enforce laws and regulations surrounding fireworks, as well as, the disposal of illegal fireworks that have been seized by the state and local jurisdictions.

Because the City prohibits the sales of consumer fireworks, none of the supporter's arguments relative to the fund raising benefits of fireworks sales apply within Pasadena, with the exception of the State Fire Marshal Dangerous Fireworks Management Fund.

Arguments in opposition: The "Safe and Sane" label on consumer fireworks in California is strictly a legal term of art and an oxymoron, not a description. "Safe and Sane" fireworks are devices containing limited quantities of explosive materials. Staff believes that placing even limited quantities of explosive materials in the hands of anyone other than a trained and qualified professional under the oversight of regulatory personnel is neither safe, nor sane. The risks of doing so are not limited to those communities that seek financial gain through fireworks sales. Cities allowing sales of fireworks impose these risks on the citizens and visitors of Pasadena because sales are not limited to their own residents and fireworks do not stop at the City boundary, a fact proven every Fourth of July.

There is no benefit to the use and/or sales of consumer fireworks beside the financial benefits to the fireworks manufacturers and distributors. Those benefits to the fireworks manufacturers pale in comparison to the risk of one injury to a child or fire loss.

This bill will have a costly impact on already stretched fire department and law enforcement operations that will need to staff up to address the inevitable increase in fireworks-related calls. Specifically, the bill will require additional personnel for patrols, inspections, attempts at enforcement and therefore increased overtime costs during an already very busy time of year for public safety agencies. Response to fireworks-related incidents will impact responses to other emergency incidents. The New Year's holiday is already a time that we can expect an increase in alcohol- and vehicle-related emergencies.


Additionally, the presence of consumer fireworks along the Parade route may limit the effectiveness of, or even render completely ineffective, some of the counter-terrorism techniques used along the Rose Parade route and at other venues. It will likely also slow traffic flow along Colorado Boulevard for both normal and emergency vehicles.

Staff acknowledges that there are growing problems associated with proper disposal of illegal fireworks and support the creation of the State Fire Marshal Dangerous Fireworks Management Fund. However, doubling the number of days that regulated fireworks may be sold will also increase the number of confiscated fireworks that will require disposal

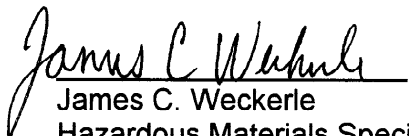
FISCAL IMPACT

The exact fiscal impact of this bill cannot be calculated. The Fire and Police Departments will likely require additional funding for staff to address responses to illegal fireworks, both along the Parade route and in the remainder of the City. Public Works may see additional cleanup costs comparable to what is experienced during the Fourth of July. Additionally, the intangible impact of significant fireworks-related incidents during a time when local, national, and international media attention is intensely focused on Pasadena is incalculable, though certainly not beneficial.

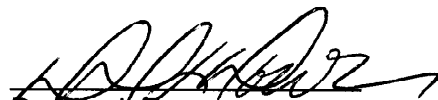
Respectfully Submitted,


CYNTHIA J. KURTZ
City Manager

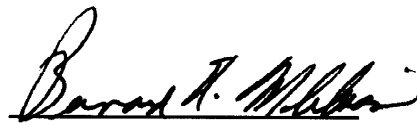
Prepared by:


James C. Weckerle
Hazardous Materials Specialist

Approved by:


Dennis J. Downs
Fire Chief

Concur:


Bernard K. Melekian
Police Chief

RESOLUTION NO _____

A RESOLUTION OF THE CITY OF PASADENA
OPPOSING THE SALES OF FIREWORKS DURING THE
NEW YEARS HOLIDAY SEASON

WHEREAS, the sale and use of consumer fireworks annually continues to cause significant injuries and fires throughout the State, including those cities where the use of such fireworks has been banned; and

WHEREAS, the sale and use of consumer fireworks serves no significant public purpose to justify the risks created by their sales and use; and,

WHEREAS, the City of Pasadena has banned the use of consumer fireworks within the city limits; and,

WHEREAS, the unlawful use of consumer fireworks within the City of Pasadena continues to be a significant and pervasive problem due to the infiltration of those fireworks from neighboring communities during the existing sales period for the Fourth of July; and,

WHEREAS, the presence and use of fireworks within the City of Pasadena during the New Years holiday would create additional hazards requiring response by Public Safety personnel already inundated with the challenges posed by managing the innumerable New Years revelers coming to Pasadena to celebrate with the Tournament of Roses Parade and Rose Bowl; and,

WHEREAS, the presence and use of fireworks within the City of Pasadena during the New Years holiday would limit the effectiveness of, or even render completely ineffective, some of the counter-terrorism techniques used along the Rose Parade route and at other venues; and,

WHEREAS, the Police, Fire and Public Works Departments expect to experience significant additional unfunded costs due to the management of, response to, and recovery from the use of consumer fireworks during the New Years holiday season; and,

WHEREAS, the intangible impact of significant fireworks-related incidents during a time when local, national, and international media attention is intensely focused on Pasadena is incalculable, though certainly not beneficial.

NOW, THEREFORE, BE IT RESOLVED by the City Council that the City of Pasadena hereby opposes Assembly Bill 1295 (Bermudez) insofar as it proposes to authorize the sales of consumer fireworks during the New Years holiday season.

AYES:

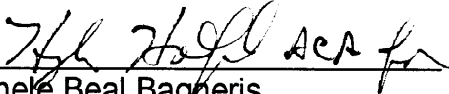
NOES:

ABSENT:

ABSTAIN:

Jane L. Rodriguez, CMC
City Clerk

Approved as to form:



Michele Beal Bagnheris
City Attorney

Attachment A



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April 13, 2005

Assembly Member Rudy Bermudez
State Capitol, Room 5135
Sacramento, CA 95814

RE: AB 1295 (Bermudez). Fireworks. Sale. Disposal. (Introduced 2-22-05)
Hearing Date: April 20, 2005, Assembly Committee on Governmental Organization
Notice of Oppose Unless Amended

Dear Assembly Member Bermudez:

The League of California Cities respectfully opposes AB 1295 as introduced on February 22, 2005. AB 1295 seeks to expand the sale of fireworks for one week each year pursuant to a license issued by the State Fire Marshal, if authorized by a city or county. Additionally, AB 1295 establishes the State Fire Marshal Dangerous Fireworks Management Fund for the purpose of covering the disposal costs associated with any fireworks seized.

The League agrees that a reliable revenue source for enforcement and disposal of fireworks is needed. However, extending the sale of fireworks for one week a year is a public safety concern for cities throughout California. Amending the bill to remove the extended sale of fireworks would ensure that the State Fire Marshal Dangerous Fireworks Management Fund is established without resulting in significant impacts to local governments.

Specifically, the League suggests amending this bill to remove Section 1, which adds Section 12599.5 to the Health and Safety Code, to provide for the sale of fireworks from 9 a.m. on December 26, of a year within 2006 to 2011, until midnight of January 1 of the following year.

Many city officials report that the sale of safe and sane fireworks also brings an influx of illegal fireworks into their communities. Additionally, fireworks sold in one city are likely to adversely affect a neighboring city, as fireworks purchasers are not limited by jurisdictional boundaries. There is no guarantee that fireworks will remain in the jurisdiction in which they were purchased.

While fire threat in December and January is generally low, wood shake roofs and other ornamental wood decorations remain vulnerable. Some cities have also experienced vegetation fires in December and January in drought years in Southern California.

AB 1295 (Bermudez) Notice of Opposition Unless Amended

April 13, 2005

Page 2 of 2

In addition to the impact on community safety, this bill will have a costly impact on public safety operations. Fire departments and law enforcement agencies will need to increase staffing during this period in order to prepare for the inevitable increase in calls that result from the use of fireworks.

This will result in additional personnel for patrols, inspections, attempts at enforcement and therefore, increased overtime costs, during an already very busy time of year for public safety agencies.

For these reasons, the League opposes AB 1295 unless amended. If you have any questions regarding the League's position on this bill, please contact Liisa Lawson Stark at 916/658-8249.

Sincerely,



Daniel Carrigg
Legislative Director

Cc: Chair and Members of Assembly Governmental Organization Committee
Chris Lindstrom, Chief Consultant, Assembly Governmental Organization Committee
Peter Renevitz, G.O. Consultant, Assembly Republican Caucus