



City Council Agenda Item

City Council Meeting Date: January 16, 2024

TO: Dean Albro, City Manager

FROM: Christie Donnelly, Management Services Director
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SUBJECT: Review and Discussion of “Safe and Sane Fireworks” Program Finances and Options for Use of Surplus Fireworks Program Funds

Recommendation:

Staff recommends the City Council receive staff’s review of the “Safe and Sane Fireworks” Program finances and provide direction, if any.

Background:

Ordinance:

On May 7, 2013, the City Council adopted and implemented Ordinance No. 1591(13), amending the Lompoc Municipal Code (LMC) Chapter 8.28, allowing for the sale and use of “Safe and Sane Fireworks”.

A few highlights of the Ordinance include:

- One application per non-profit group (specifies what a group needs to be eligible);
- One license per 7,500 residents, or portion thereof (currently six licenses);
- Guarantees funding of up to \$10,000 for “employee salary, overtime, and benefit costs, disposal costs, clean-up costs, and operations costs incurred by the Lompoc Police, Fire, or other City Departments and authorized agencies to operate a task force to monitor, provide services related to, and enforce the provisions of [LMC Chapter 8.28] between June 28th and July 7th of each calendar year;”
- Lottery each year (each permit is good for that year’s selling season);
- Age to purchase “Safe and Sane Fireworks”: 18 and above (State allows 16);
- Financial statements are required of all groups by Nov 1st.

Since 2013, multiple updates have been presented by the Chief of Police, the Fire Chief, and the City Attorney, concerning Fireworks and Fireworks Enforcement. Presentations, followed by discussions among the City Council as well as the public, were made on December 3, 2013, June 3, 2014, June 2, 2020, August 4, 2020, February 2, 2021, and March 16, 2021, most specifically related to enforcement and safety issues.

Costs to Non-profits:

The process for "Safe and Sane Fireworks" Program is specified in the Lompoc Municipal Code (LMC) in Chapter 8.28 FIREWORKS. The following includes a non-exhaustive summary of sections that pertain to this financial discussion. The entire code is available to read online at <https://ecode360.com/43245226#43245226>.

Section 8.28.010 specifies the following definitions relevant to this financial discussion:

"Surcharge" shall mean the amount established by Council resolution and shall be used by the City to assist with the funding of the fireworks task force costs. – *This surcharge has been set by Council to be 4% of the gross receipts of each distributor.*¹

"Fireworks task force costs" means those employee salary, overtime and benefit costs, disposal costs, cleanup costs, and operations costs incurred by Lompoc Police, Fire, or other City Departments and authorized agencies, to operate a task force to monitor, provide services related to, and enforce the provisions of [LMC Chapter 8.28] between June 28th and July 7th of each calendar year; provided, that fireworks task force costs shall be the amount established by Council resolution.

Section 8.28.060, paragraph C.8., details the reimbursement agreement that requires the wholesaler to pay the City for that distributor's pro rata share of a \$10,000 contribution to fireworks task force costs inclusive of administrative, regulatory and enforcement oversight incurred during the period that fireworks may be sold by the applicable permit and which are not reimbursed by the Surcharge.

The reimbursement agreement with the wholesaler that provides goods and services to the non-profit organizations also requires the wholesalers to pay to the City an amount equal to 30% of the amount to be allocated to each non-profit organization serviced by that wholesaler, after the wholesaler and non-profit organization split the revenue generated by the "Safe and Sane Fireworks" sales at the booth operated by that non-profit organization. Those funds are to help fund the City's July 4th Celebration for the calendar year immediately following the effective date of the agreement. That contractual relationship between wholesaler and the City recognizes the importance of the July 4th Celebration.

City's July 4th Celebrations:

Some of the key impacts to the July 4th celebrations include the COVID-19 pandemic closures, loss of the venue availability at Lompoc High School, significant safety issues at Ryon Park that resulted in the show vendor disallowing its use, and the lack of any other viable possible venues within the City.

¹ Resolution No. 5879(13)

The following summarizes the City's July 4th celebrations since 2013:

- 2013-2019 Community Fireworks show held at Lompoc High School – nominal ticketing charge;
- 2020 – Celebration cancelled due to COVID-19 pandemic;
- 2021 – Community Fireworks show held at Ryon Park – nominal ticketing charge;
- 2022-2023 – Community Parade and Family Fun Day in the Park – no charge.

Request for Today's Discussion:

During the City Council meeting held on July 18, 2023, multiple representatives of non-profit organizations made public comments requesting changes to the "Safe and Sane Fireworks" Program cost structure. Due to the fact that fireworks shows have not occurred in three of the four prior years, there was a shared concern that the City had received more donations toward the event than had been used. Each commentor offered different possible scenarios for either decreasing future fees, refunding past fees, or a combination of both. At the end of that meeting, the City Council requested that staff bring back a review of the finances of the "Safe and Sane Fireworks" program.

Discussion:

The "Safe and Sane Fireworks" ordinance was originally passed with the understanding and expectation that the funds submitted to the City would assist with the costs of the City's following-year July 4th celebration, as well as all enforcement-related costs of the public safety task force. The makeup of these two items has changed over the past few years, and as such, the guidelines established to fund them have been reviewed.

Financial Snapshot – July 4th Celebration:

- The average cost of the 2019 and 2021 July 4th Celebrations that included fireworks shows was \$40,892 per year. Approximately \$16,000 per year of those costs was covered by ticket sales or sponsorships.
- The average cost of the 2022 and 2023 July 4th Celebrations that did not include fireworks shows was \$26,861 per year, and approximately \$1,200 per year in sponsorships helped offset those costs.
- In 2020, when the event had to be cancelled, \$17,493 had been collected from the 2019 sales and was being held in trust by the City for the purposes of a July 4th celebration that did not occur.
- The balance in the July 4th celebration account at the end of the 2023 calendar year, which is currently being held in trust by the City of Lompoc, is \$47,727. Approximately \$30,000 of this balance is expected to be needed for the 2024 July 4th celebration.

Financial Snapshot – Enforcement Task Force:

- The average annual costs incurred by the enforcement task force during 2019-2021 was \$10,548.

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- The average annual costs incurred by the enforcement task force during 2022-2023 was \$5,516.
- The average annual revenue received by the City from non-profits for the purposes of the enforcement task force was \$22,696. Of that amount, \$10,000 (or 44%) per year was from booth fees and \$12,696 (or 56%) on average was from the 4% surcharge.
- The balance of the Enforcement Task Force account at the end of the 2023 calendar year, which is currently being held in trust by the City, is \$60,871. Of that total, \$47,434 is attributable to booth fees and \$13,437 to the 4% surcharge.
- The surcharge amount collected must be used for enforcement and cannot be considered for refund or alternative uses.
- The booth fee amount collected must be either used for enforcement or can be refunded to the contributing nonprofit organizations.

Given that the City has collected more funding than was required for the past four years of events and past four years of fireworks enforcement, there are several potential options for how to address the surplus. Some of these options, in no particular order, include:

- 1) Refund all or a portion of the allowable surplus to the non-profits that contributed them;
- 2) Collect less fees going forward, or until fireworks shows are again a viable option;
- 3) Use the surplus event-specific funds for future larger-scale July 4th event(s);
- 4) Continue to hold all or a portion of the funds in trust until fireworks shows are again a viable option;
- 5) Any combination of the above; or
- 6) Other possibilities not mentioned here.

Option 1: Refund all or a portion of the surplus to the nonprofits. There have been ten different non-profits that have participated in the “Safe and Sane Fireworks” Program over the past five years. Some of them participated only once, some a few times, and two participated every year. As a result, there is a wide range of total contributions made by participating organizations – from \$0 to as much as over \$69k in a five year period. Considering the variance among the organizations, if the City Council were to provide direction to refund all or a portion of the fees collected, it is staff’s recommendation that any refund be calculated on a pro-rata basis.

Table 1 summarizes the contribution percentages for the “event contribution” of the ten non-profits (labeled A-J to protect confidentiality). It also provides examples of what the refund breakdown would be if the entire surplus, less the anticipated costs of \$30k for the 2024 July 4th celebration, were to be refunded.

Nonprofit	5 year specific percent share event donation	If Refund one-time all of surplus \$(47,727)	If Refund surplus less \$30k for next year show (\$17,727)
A	42.68%	\$ 20,371	\$ 7,566
B	16.10%	7,683	2,854
C	14.39%	6,866	2,550
D	16.87%	8,054	2,991
E	0.39%	184	69
F	0.00%	-	-
G	5.78%	2,760	1,025
H	0.20%	94	35
I	0.00%	-	-
J	3.60%	1,716	637

Table 1

Table 2 summarizes the contribution percentages for the “enforcement contribution” of the ten non-profits (labeled A-J to protect confidentiality). It also provides examples of what the refund breakdown would be if the entire surplus were to be refunded as well as the entire surplus less the 2023 collections to be used for 2024 enforcement:

Nonprofit	5-year Percent share enforcement - booth only	If Refund all of surplus = \$47,434	If refund all except 2023 collections = \$25,399
A	24.67%	\$ 11,700	\$ 6,265
B	24.67%	11,700	6,265
C	14.67%	6,957	3,725
D	14.67%	6,957	3,725
E	3.33%	1,581	847
F	4.00%	1,897	1,016
G	3.33%	1,581	847
H	3.33%	1,581	847
I	3.33%	1,581	847
J	4.00%	1,897	1,016

Table 2

Option 2: Collect less fees going forward, or until fireworks shows are again a viable option. The City currently collects \$10,000 plus a 4% surcharge on gross sales for the purpose of funding the enforcement task force. To continue to provide an enforcement task force, staff estimates that the City will need to collect approximately \$12,000 in enforcement fees per year. Given historical sales patterns, these amounts would equate to a surcharge of approximately 1%, in addition to the “booth” enforcement fee of \$10,000. Alternatively, these amounts would also approximately equal the existing surcharge of 4% plus an additional \$2,000 in total “booth” enforcement fees per year.

The City also currently collects 30% of the net profit reported from each non-profit participant for the purposes of the July 4th Celebration event. To continue offering the Community Parade and the Family Fun Day at the Park July 4th Celebrations, at no cost to participants, it is estimated that the City will need to collect approximately \$27,000 in event contributions. Given historical sales patterns, these amounts would necessitate the minimum required donation to continue at 30%. That amount could be reduced if the current surplus balance was utilized to subsidize any shortfall (rather than refunding it to past participants).

Option 3: Use the surplus funds for an additional or larger-scale July 4th event(s). Some have suggested the possibility of a July 4th Celebration to include a drone show or other large-scale event. The estimated cost for a drone show starts at approximately \$80,000.

Option 4: Continue to hold all or a portion of the funds in trust. It can be argued that all the funds were collected based on established guidelines that all participating non-profits agreed to when they applied to participate in the "Safe and Sane Fireworks" program, and as such it is within the City's purview to continue to hold the funds in trust. The City would still be required to use the funds for the designated purposes.

Option 5: Any combination of Options 1-4. The City Council could consider refunding all or a portion of the surplus as well as decreasing the ongoing fees. They could also consider refunding less than the entirety of the surplus and opt to hold a portion of the surplus as a buffer against increasing costs or lower than expected sales.

Option 6: Other possibilities not mentioned in this report. The City Council could consider any number of alternative options not mentioned in this report and direct staff to either implement or bring back additional data for evaluation as directed.

Fiscal Impact:

The City holds all funds received from the "Safe and Sane Fireworks" program aside in trust. This means that the funds are not recorded as revenue to the City until, and only if, reimbursable expenditures are incurred. As such, the surplus amounts mentioned in this report have no bearing on the City's financials other than being reported as held in trust on the balance sheets. If, however, the City were to refund the full amount of the surplus now, and future "Safe and Sane Fireworks" sales were to drop below historical patterns, the ability of the City to offer the Family Fun Day at the Park at no cost could be negatively impacted.

Conclusion:

This report reviews the "Safe and Sane Fireworks" program financial guidelines, and its original intent to help fund the City's July 4th celebration and the related fireworks enforcement task force. Due to multiple factors over the past few years, including the pandemic and venue challenges, the landscape of the City's July 4th celebration has changed. This report summarizes the current financial position of the fireworks program

funds held in trust and provides options for the City Council to consider for moving forward.

Respectfully submitted,

Christie Donnelly, Management Services Director

APPROVED FOR SUBMITTAL TO THE CITY COUNCIL:

Dean Albro, City Manager