

City Of Milwaukee
FIREWORKS TASK FORCE



FINAL REPORT AND
RECOMMENDATIONS

Issued June, 2007

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Diana Morgan, City Clerk's Office – for her staff support to the Task Force, including meeting preparation, recording of minutes and facilitating communication among Task Force members.

Leslie Silletti – Legislative Reference Bureau – for organizing and writing this report.

Individuals from the Milwaukee County Sheriff's Office, the Milwaukee Police Department – Safety Division, the City of Milwaukee Safety Commission, the Wisconsin Attorney General's Office and the Milwaukee County District Attorney for making presentations to the Task Force.

David La Haye, City of Milwaukee Department of City Development – for capturing a beautiful fireworks show from the City Hall bell tower, and providing and editing the photograph for the front cover of this report.

Alderman Davis and Alderman Witkowski wish to acknowledge the members of the Fireworks Task Force for their hard work and dedication, and their substantial contributions to public safety in the City of Milwaukee.

INTRODUCTION

The City of Milwaukee's Fireworks Task Force was created by Common Council File Number 060529, which was adopted on September 26, 2006 (Appendix A). This resolution directed the 12-member Task Force to study issues related to the prevalence of fireworks in the City of Milwaukee, and to submit its findings and recommendations to the Common Council.

TASK FORCE MEMBERSHIP

The 12 members of the Fireworks Task Force are:

Ald. Joe Davis, Sr., co-chair (appointed by the Common Council President)

Ald. Terry Witkowski, co-chair (Common Council President)

Deborah A. Bent, citizen at large (Common Council President)

Carol Bruss, Fourth of July Commission (Fourth of July Commission)

Deputy Chief Donald G. Doro, Milwaukee Fire Department (Fire Chief)

Edward Ehrlich, City of Milwaukee Assistant City Attorney (City Attorney)

Melvia Ford, citizen at large (Common Council President)

Kristine Hinrichs, Municipal Court Chief Court Administrator (Chief Judge)

Joanne Jalowiec, President, Wilson Park Fourth of July Association (Mayor)

William Rahming, Sr., citizen at large (Common Council President)

Sandy Schmidt, citizen at large (Common Council President)

Captain Anthony Smith, Milwaukee Police Department (Police Chief)

MEETING DATES

The Fireworks Task Force convened on the following dates:

January 11, 2007
February 22, 2007
March 26, 2007
April 19, 2007
May 9, 2007
May 31, 2007
June 27, 2007

The agendas and minutes from these meetings are found in Appendix B. The June 27 minutes are not included in this report.

I. EXECUTIVE SUMMARY

All fireworks within the City of Milwaukee that have not been permitted by the City are illegal. The Fireworks Task Force found that the prevalence of illegal fireworks in the City creates substantial public health and safety risks, and at great expense to public resources. The byproducts of illegal fireworks include personal injury to both persons using fireworks and bystanders, and especially to children; the destruction of personal property from fireworks-related fires; a drain on public safety resources, including the Milwaukee Fire Department, the Milwaukee Police Department and the Milwaukee County Sheriff's Office; and the disruption of quality of life of persons attending permitted fireworks displays, and persons at large throughout the City. Illegal fireworks usage peaks around the 4th of July and New Year's holidays, but prevention and enforcement strategies should occur year-round.

With the task of preparing recommendations to the Common Council, the Task Force evaluated the City of Milwaukee's fireworks ordinance, State law and surrounding municipalities' fireworks ordinances. It invited speakers and listened to testimony from representatives from the City's Safety Commission and Safety Division, the Milwaukee County Sheriff's Office, the Wisconsin Attorney General's Office and the Milwaukee County District Attorney, John Chisholm.

The recommendations submitted by the Fireworks Task Force comprise a multi-pronged approach with the goal of creating effective deterrents from and eliminating illegal fireworks usage in the City of Milwaukee. As part of this approach, the Task Force recommends lobbying for changes in State law, so that the constant flow of fireworks into the City may be stemmed. The Task Force recommends implementing an educational campaign to change the common perception of fireworks, so that people recognize that fireworks are illegal and appreciate the dangers associated with illegal fireworks. Since youth have the highest injury rates, especially youth aged 5 to 9, although adults purchase illegal fireworks, the campaign will particularly stress that possession of fireworks is illegal. It also recommends implementing a tracking mechanism so that injury rates and costs to public safety departments can be studied, engaging and delegating existing City resources in the most effective manner, and working with other municipalities and professional associations to identify the common problems that illegal fireworks create, and lobbying for changes to State law.

The broad expertise of members of the Task Force enabled the Task Force to develop recommendations which cover a wide range of policy efforts. The Fireworks Task Force encourages implementation of the recommendations contained in this report, and intends for this report to be used as a guide for decreasing the prevalence of illegal fireworks in the City of Milwaukee. Most of these recommendations require no expenditures, and can be accomplished with allocation of existing resources.

II. SUMMARY OF FIREWORKS LAW

According to federal law, the Bureau of Alcohol, Tobacco and Firearms regulates display fireworks, and the Consumer Product Safety Commission regulates consumer fireworks. State and local authorities, however, have preemptive authority for more stringent consumer fireworks regulations. Federal legislation was not a subject of the Task Force; rather, the Task Force focused attention on state and local regulation.

Section 167.10 of the Wisconsin State Statutes (Appendix C) defines “fireworks” as “*anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use.*” The statute prohibits the sale, possession and use of all fireworks, with exceptions including sparklers, toy snakes and caps. Municipalities are enabled to enact ordinances that further restrict exempted items, and s. 105-47 of the Milwaukee Code of Ordinances prohibits the sale, discharge, use and possession of all fireworks (Appendix D).

State law enables municipalities to allow only a small variety of fireworks, and thus there is little differentiation between municipal ordinances. As most municipalities either ban fireworks altogether or allow all of the devices permitted by State law, the Task Force found that distinguishing between municipal ordinances was not useful in developing recommendations. The Task Force found that the prevalence of illegal fireworks in the City is principally due to a misinterpretation of the statute by municipalities and vendors that are issuing illegal permits and selling illegal fireworks.

Section 167.10 (8)(a) of the Wisconsin Statutes states that a city, village or town may petition the circuit court for an order enjoining violations of the sale, use or handling of fireworks or local fireworks ordinances (refer to Appendix C). The Task Force requested that the Milwaukee County District Attorney’s Office review the State fireworks law and provide information relating to the process by which an individual or a municipality can receive an injunction under s. 167.10 (8)(a), Wis. Stats. The District Attorney’s Office concluded, “*injunctions can be issued only against named individuals or entities, based on allegations of one or more specific violations of the fireworks statute or a local ordinance.*” Further, the District Attorney’s Office states, “*Unfortunately, s. 167.10 does not establish any parameters for the issuance of court orders enjoining the sale, use, or handling of fireworks.*” The Task Force deemed this to be an insufficient and impractical mechanism for enforcing fireworks law. The District Attorney’s Office correspondence is attached as Appendix I.

III. STATE LAW AND FIREWORKS PERMITS

Certain municipalities and fireworks companies are erroneously interpreting State law to issue illegal permits and sell illegal fireworks. As a result, with only a short drive outside of the City of Milwaukee, and for only a minimal permit fee, City residents have the ability to purchase a wide variety of illegal fireworks.

Section 167.10 (3), Wis. Stats.:

“No person may possess or use fireworks without a user’s permit from the mayor of the city, president of the village or chairperson of the town in which the possession or use is to occur or from an official or employee of that municipality designated by the mayor, president or chairperson.”

According to Assistant Attorney General Juan Colas, any permit issued by a fireworks vendor to an individual is illegal, and the sale of fireworks to a person who does not hold a valid permit is a violation of State law. The Department of Justice’s position is that these permits are invalid because State law only authorizes the top official at the municipal level, whether it is the mayor, village president or town chair, to issue a permit or delegate the authority to issue a permit to a municipal employee. The delegation to a vendor is beyond what is allowed by the statute, and the owner of the store is violating the law when he or she sells fireworks under an invalid permit. The reason a permit sold by a vendor is not valid, even though it may bear a facsimile signature of the top official, is that the name of the person to whom the permit had been issued was filled in by the vendor, so the vendor was the one who really issued the permit, and not the top official. Beyond that, the statute requires that permits be issued to groups, and not individuals. Appendix E is an example of a fireworks permit issued in the Town of Raymond.

State law dictates that neither any municipality nor the Wisconsin Department of Justice may enjoin an order to prevent or cease the sale of illegal permits and fireworks. There is lack of incentive for municipalities which allow the sale of fireworks to stop these sales, however, because these municipalities receive revenue from the sales of permits and property taxes from the fireworks vendors. Additionally, fireworks-related problems generally do not occur in municipalities where they are sold, so there may be little impetus to change. The Fireworks Task Force found that to effectively stop the practice of issuing illegal permits, the City of Milwaukee should lobby State legislators to reform State law to prohibit the sale of fireworks anywhere within the State of Wisconsin to anyone other than legitimate fireworks show exhibitors and suppliers. Without a change in State law, the City of Milwaukee has little ability to stem the tide of illegal fireworks into the City, and no recourse in dealing with illegal activities in other municipalities.

IV. MEASURING THE COSTS OF ILLEGAL FIREWORKS

The Fireworks Task Force found that a comprehensive set of data relating to the costs of fireworks, to both persons and property, does not exist. Because of the lack of data, it is difficult to assess the overall impact of illegal fireworks in the City of Milwaukee. Lack of data also inhibit policymakers from understanding the true extent of the problem, and make it difficult to relay the message to the public that fireworks are both illegal and dangerous.

Injuries related to fireworks are underreported and consequentially underestimated. As State law does not require that hospitals record fireworks-related injuries as such, most hospitals do not track this information. These injuries generally fall into categories such as “other” or “burn” for emergency room visits, and similarly there is no “fireworks” category for in-patient stays. One hospital denoted a “recreation” category for reporting fireworks-related injuries. Though these data most likely exist in individual patients’ charts, they are not available in a searchable format and each hospital records these injuries differently. Similarly, emergency care responders, including the Fire Department and ambulance companies, do not necessarily record fireworks-related injuries. A limited amount of data is available at the County and State level, but these data presumably underestimate the number of fireworks injuries, and no data is available at the City level.

It is difficult and cost-prohibitive to estimate the number of hours and expense illegal fireworks cost the Milwaukee Police and Fire Departments and the Milwaukee County Sheriff’s Office. For example, because there is no computer program to segregate these data in Milwaukee Police Department records, each assignment would have to be pulled by hand and reviewed. Officers involved in the assignment would have to be looked up, and then it would have to be determined at what pay scale they were at when they took the assignment. This would also have to be done for the telecommunicator who took the call and the dispatcher who dispatched the call. This process would require approximately 2 Milwaukee Police Department analysts and 2 months to calculate the costs to the Police Department associated with all fireworks calls for services for one year.

Because public safety officers, medical facilities and emergency care providers do not track fireworks-related injuries and incident rates, the Task Force recommends that the Milwaukee Fire Department, Police Department and Health Department implement a tracking mechanism, so that injury rates and costs to public safety departments can be studied.

V. MEASUREABLE COSTS

To illustrate the problems associated with illegal fireworks within the City of Milwaukee, Task Force members from the Milwaukee Fire Department, Police Department and the Milwaukee County Sheriff's Office provided information from their respective departments. Additionally, all Task Force members discussed quality of life issues at length. These summaries highlight not only the costs associated with fireworks, but also the need for implementing a tracking mechanism, so that the extent of the fireworks problem and related costs, can be accurately represented.

Personal Injury

According to the National Fire Protection Association's (NFPA) June, 2006, *Fireworks* publication, in 2004 9,600 people were treated at hospital emergency rooms for fireworks-related injuries. In 2004, 55% of people injured by fireworks were under the age of 20, and children aged 5 to 9 face the highest risk of fireworks injuries. The most common fireworks-related injury is burns, followed by contusions and lacerations, hands and fingers, and head and eye injuries. Males account for 75% of fireworks injuries. The NFPA asserts, "*Based on the amount of time and quantities in use, fireworks pose a higher risk of death than any other consumer product.*" From 1998 – 2002, fires started by fireworks killed 8 people per year, and 6 people per year were killed directly by fireworks.

Countywide and statewide personal injury data are available through the Wisconsin Department of Health and Family Services, but are presumably an underrepresentation of the total injuries related to fireworks. Between 2002 and 2005 there were 92 reported injuries in Milwaukee County and 432 in the State of Wisconsin (no available State data for 2002).

Personal Property

The Milwaukee Fire Department reported 8 fireworks-related incidents in the City during 2006, with no related deaths or injuries reported. Each of these incidents included loss of property, and there were 2 substantial property damage incidents:

- On July 4th, 2006, a fire started by fireworks at a commercial/residential property at 1711 W. Mitchell Street caused \$20,000 of personal property loss and \$35,000 of property damage. It took firefighters 2.5 hours to search for occupants and suppress the 2-alarm fire.
- On July 2nd, 2006, a fire started by fireworks at a residential property at 1007 W. National Avenue caused \$25,000 of personal property loss and \$50,000 of property damage. It took firefighters one hour and 20 minutes to suppress the fire, which was deemed not caused by the occupants.

Drain on public safety resources

Illegal fireworks usage usually occurs during a peak crime period around the 4th of July, when the Police Department and Sheriff's Office are not able to respond to low priority fireworks-related calls for service. However, the following points illustrate the resources the Milwaukee Police Department and the Milwaukee County Sheriff's Office have dedicated to enforcing the City and County ordinances (the Milwaukee County Ordinance is attached as Appendix F).

- In 2006, the Police Department received 2,512 calls for service for fireworks-related issues. Of those calls, 1,267 were received between July 1st and July 7th, and the other 1,245 calls were received sporadically throughout the rest of the year. Calls begin as early as New Year's Day, when the department receives about 5 calls, and begin to increase around mid-June.
- In 2006, the Police Department issued 164 citations as a result of an officer observing a violation, or a citizen who witnessed the incident and who was willing to come forward as a complainant. There were 122 citations in 2005 and 106 citations in 2004.
- There were 143 instances of police-officer inventoried fireworks; the Police Department incurs costs for both the inventory of these items and the disposal of the items by the bomb squad.
- The Sheriff's Office deployed as many as 120 officers to McGovern Park on July 3rd and July 4th last year, and used riot gear, horses and dogs. Twenty deputies were initially deployed to McGovern Park and a minimum of 10 deputies each were deployed to several other parks throughout the County.

Disruption of quality of life

The Fourth of July Commission authorizes the contract for the City of Milwaukee 4th of July firework displays, and the City of Milwaukee Department of Neighborhood Services issues the fireworks display permit to Bartolotta. Bartolotta is the only company which puts on fireworks displays in the parks, and the Department of Neighborhood Services issues one permit to Bartolotta for all of the fireworks shows. In 2006 there were 8 parks that provided fireworks displays: Alcott, Gordon, Humboldt, Jackson, Lake, McGovern, Noyes and Wilson. In 2007, there will be no fireworks display at McGovern Park. Generally, citizens are law-abiding during 4th of July celebrations at these parks, but nevertheless each park experiences problems each year with the discharge of illegal fireworks. The most extreme example of this is McGovern Park, where after problems escalated for 3 years, the fireworks display was cancelled. Illegal fireworks make it difficult for law-abiding citizens to celebrate the 4th of July in a safe manner.

Outside the parks, and throughout City streets, the sight and sounds of illegal fireworks are ubiquitous during the 4th of July. Residents are faced with the constant threat of fires and damage to their personal property. Additionally, persons with existing respiratory conditions are affected by the large quantities of chemical residue from exploded fireworks, personal pets are terrorized and sleep schedules are interrupted. Throughout the City, peoples' safety and personal property are compromised by negligent use of illegal fireworks.

VI. ENFORCEMENT DIFFICULTIES

In 2006, the Police Department received 2,512 calls for service for fireworks-related issues, and over the past three years there have been only approximately 400 fireworks citations written. In 2006 there were only 52 adult and 35 juvenile convictions in Municipal Court.

When one looks at the number of calls for service and the number of citations issued and Municipal Court convictions, there seems to be a large disparity; however, calls for service are prioritized so officers are not always able to address fireworks-related calls in a timely manner, and are not able to investigate fireworks complaints to the extent that they are able to obtain evidence leading to prosecution. Illegal fireworks violations mostly occur during the period surrounding the 4th of July, which is typically a high crime weekend, and fireworks calls are *Priority 4* (the lowest priority) according to the Milwaukee Police Department.

Further contributing to the low number of citations and convictions, when the Police Department receives complaints about the discharge of fireworks and arrives at the scene, the individual who engaged in the act is gone and the only way to enforce fireworks regulations is for a witness to make positive identification. A police officer is rarely in a position to testify as to who sold or used fireworks. Enforcement of penalties for fireworks violations requires evidence that clearly identifies that the person charged is the person who sold or used the firework.

The Task Force evaluated solutions to address the problem of making possible identification and recommends encouraging block watch groups to use digital cameras to record fireworks violations. The City will also discuss with these groups the steps required to prosecute an individual, including the necessity of witness testimony.

VII. CURRENT STRATEGIES

The Task Force solicited statements from the Milwaukee Fire Department, the Milwaukee Police Department and the Milwaukee County Sheriff's Office regarding official enforcement strategies with regard to fireworks laws. These statements, respectively, comprise Appendix H. A summary of these statements is contained below, combined with information provided at Task Force meetings. Information relating to the Safety Division, Safety Commission and Police Department and Sheriff's Office collaboration was obtained from Task Force meetings.

Milwaukee Fire Department

It is the position of the Milwaukee Fire Department that trained professionals under controlled settings should be the only persons permitted to use fireworks, and appropriate safeguards should be in place. The department supports amending state law to prohibit sales of all consumer fireworks, and taking steps to prevent the sales of fireworks to residents of communities which have more restrictive laws regulating the use of fireworks.

The Milwaukee Fire Department supports the collaboration of groups including the National Fire Protection Association, International Association of Fire Chiefs and the International Association of Fire Fighters, along with other health and safety advocacy organizations, that have joined together to form the *Alliance to Stop Consumer Fireworks*.

Milwaukee Police Department

It is the policy of the Milwaukee Police Department to enforce the City's fireworks regulations whenever possible and confiscate any and all firework products that are encountered by officers. If an officer issues a citation, it is returnable in Municipal Court.

The department does an annual media campaign to inform citizens of the consequences of being caught with fireworks, and the potential hazard and harm fireworks present.

During the peak periods of the year, officers review policies thoroughly in preparation of the increase in calls for service, and reminders to officers are also posted. Officers also visit stores to remind them of the policies for the sale of illegal fireworks in the City.

During the July 4th holiday, all of the department's officers are utilized to assure maximum coverage; the only off days for officers during that period are for scheduled vacations.

Milwaukee County Sheriff's Office

The Sheriff's Office states its policy is to enforce all violations of County ordinances that are encountered, witnessed or referred to. It also states that with 144 County parks, it is a challenge to investigate all complaints, especially around the 4th of July. Its Targeted Enforcement Unit, a uniformed division that monitors parks during summer months, is tasked with the responsibility of enforcing the fireworks ordinance.

Additionally, during the 4th of July weekend, jails are more lightly staffed to have as many deputies as possible on the streets. In 2006, the department implemented "rolling units" of deputies, which focused primarily on parks. When the Sheriff's Office issues a citation, the citation is returnable in Circuit Court.

Milwaukee Police Department – Safety Division

The Safety Division distributes safety bulletins one month prior to the beginning of 4th of July celebrations in the City, and makes periodic announcements and news releases through its public relations officer advising residents that anything that "*smokes, sparks or bangs*" is illegal. The Safety Division is currently in discussion with the Milwaukee Public Schools Recreation Division regarding educating students about the dangers of illegal use of fireworks in the City.

City of Milwaukee Safety Commission

The Safety Commission's main role is to serve as an advisory board to the Safety Division, though it has no direct authority over the Safety Division. The Safety Commission helps to identify issues, develop programs and policies, and it receives reports and reviews recommendations.

Police Department and Sheriff's Office Collaboration

Each year incident commanders from both the Police Department and the Sheriff's Office meet to review and divide available resources for scheduled events throughout the City, including the fireworks displays. This effort is called "Directed Patrol Missions" (DPM's).

VIII. TASK FORCE RECOMMENDATIONS

The recommendations of the Fireworks Task Force comprise a multi-pronged approach, including lobbying for changes in state fireworks law, creating an educational campaign, implementing a tracking mechanism, so that injury rates and costs to public safety departments can be studied, engaging and delegating existing resources in the most effective manner, and working with other municipalities and professional associations to identify the common problems that illegal fireworks create and lobbying for changes to State law.

Based on its research, findings and analysis, the Fireworks Task Force makes the following recommendations:

1. RECOMMENDATION: Lobby for Changes in State Law

Assistant City Attorney Edward Ehrlich, on behalf of the Fireworks Task Force, summarized the legal recommendations for the Fireworks Task Force. As excerpted from Mr. Ehrlich's memorandum (Appendix G), the Task Force finds that the Wisconsin fireworks statute has two faults that must be remedied in order to provide relief from the danger of fireworks.

- There must be statewide prohibition of fireworks possession and use, and State law must not provide any scheme for permitting possession of consumer fireworks. The statute does not specifically distinguish between the types of fireworks shells that would be used by a professional "fireworks" display company, such as Bartolotta, and the common garden-variety firecracker and bottle rocket. Because there is no legitimate purpose or use for illegal fireworks, the state statute must be changed to prohibit the possession and use of them anywhere in the state, and not provide any scheme for permitting their possession within the state pursuant to a permit granted either by the state or by any local jurisdiction.
- There must be a mechanism for enforcement of a violation of the statute. Currently, there is no mechanism for enforcement of a violation of the statute. The requirement that a municipality must petition the circuit court for an order enjoining a violation of the statute is unworkable. There is no reason why this statute, like any other statute that prohibits unlawful activity, should not have a penalty section setting forth a schedule of sanctions for violations, as well as the establishment of jurisdiction for enforcement to the district attorney of the county where a violation of law occurs. Without those changes, the "fireworks stands" that operate openly within close proximity to Milwaukee will continue to flourish and continue the flow of these unwanted firecrackers into Milwaukee.

The Task Force recommends lobbying state legislators, by Common Council resolution, and other means determined appropriate by the Intergovernmental Relations Division, to make appropriate changes to state law.

2. RECOMMENDATION: Create an Education Campaign

The educational component focuses on the need to change individual perception so that people will realize that fireworks are both harmful and illegal. Since the majority of injuries happen to youth, although adults purchase illegal fireworks, the campaign should particularly stress that possession of fireworks is illegal. The Task Force believes that by educating both adults and youth, illegal firework usage will be reduced and many injuries avoided.

With various strategies, the campaign will reach out to both youth and adults. The campaign should begin before Memorial Day, and be most prevalent before and during peak periods of illegal fireworks usage. It should inform people that fireworks are illegal to sell, use and discharge, and particularly that it is illegal to possess any fireworks in the City of Milwaukee. Oversight and follow-up of the educational campaign shall be delegated to the Milwaukee Police Department – Safety Division. The following are recommended components of the educational campaign:

1. Establish relationships with schools: distribute fliers and an educational DVD, ask teachers and principals to discuss with classes, give presentations and encourage fireworks viewing at designated parks.
 - Create a DVD that includes an advisory message from the Mayor, the Common Council, Fire Department, Police Department, Police Department – Safety Division, Sheriff’s Office and the City of Milwaukee Housing Authority identifying the consequences associated with the sale, possession and discharge of fireworks.
2. Media blitz during peak periods.
 - Clear Channel has expressed interest in providing billboard space for fireworks-related public service announcements, and other companies may also be interested.
 - Local news stations and papers may also be interested in covering fireworks stories and providing educational information.
 - City public relations personnel should include fireworks information in respective publications.
 - Elected officials and the Safety Division should hold press events providing fireworks information.
 - Channel 25 should be utilized before peak fireworks periods.
3. More signs at parks: temporary and permanent.
 - City will not assume financial responsibility; rather, the City and the County will share the financial responsibilities through an

intergovernmental agreement. Necessary City funding may be provided in the 2008 City Budget.

- Approximately 20-30 signs should be put at each park entrance. A sign similar to a temporary campaign sign can be used.
4. Request hospitals and non-profit organizations to sponsor billboards, and focus on fireworks-related health risks, especially during peak periods.
 - Corporate sponsors with health foundations may be interested in sponsoring.
 5. Establish relationships with Big Brothers Big Sisters, Boys & Girls Clubs, YMCA's, and other youth-focused non-profit and community development organizations to educate youth as to the dangers of fireworks.
 6. Ask neighborhood organizations and block watch groups to do media blitzes in their literature, or provide literature that may be handed out by block watch captains.
 7. Add information to websites, including Summerfest, City and County sites. Information is on City page each year, but should be on the City's homepage before and during peak periods.
 8. Distribution of the Fireworks Task Force final report to Municipal Court judges.

3. RECOMMENDATION: Implement Mechanisms for Tracking Personal Injury Rates and Costs of Public Resources Related to Illegal Fireworks

- The Milwaukee Fire Department, Police Department and Health Department should identify and implement the best possible means for tracking fireworks-related calls for service and injury rates.
- These departments should assess the best possible means to coordinate these efforts with Milwaukee County and the State of Wisconsin.

4. RECOMMENDATION: Engage and Delegate Existing City Resources in the Most Effective Manner

The Task Force recommends that the following City departments be tasked with the following responsibilities:

1. **Milwaukee Police Department – Safety Division.**
 - Take a more proactive role to collaborate fireworks safety education efforts with the Police Department, the Fire Department, other City departments and community agencies.
 - More aggressive public outreach with regard to the problems relating to illegal fireworks.

- Develop informational brochures and provide brochures for distribution to other City departments and community agencies. The brochures should be distributed at parks before fireworks events, and other related scheduled events, advising citizens that fireworks are illegal. The Safety Division should work with Fourth of July Commission in developing the brochure. Brochures should be provided to the Fourth of July Commission, so the Commission can provide these to park volunteers for distribution to people at the parks.
- Stricter criteria and monitoring of permitted fireworks displays that would include review of policies for issuance of permits and analysis surrounding safety conditions at locations of fireworks displays.
- Make recommendations to the Police Department and other departments regarding fireworks safety.
- Report to the Common Council with updates relating to fireworks prevention strategies and measurements of success.

2. Safety Commission.

- Include matters related to fireworks for discussion at meetings. With more attention given to fireworks at meetings, the Safety Commission will be able to further assist and make recommendations to the Safety Division.

3. Milwaukee Police Department – Community Liaison Officers.

- Use the block watch digital cameras to capture evidence. In 2007 the Common Council passed a resolution that allocated funds to provide digital cameras to block watch groups. These cameras will assist the police and municipal court prosecutors to make positive identification of persons who violate the fireworks ordinance. The City will also discuss with these groups the steps required to prosecute an individual, including the necessity of witness testimony.

4. Common Council.

- Raise forfeiture ranges for adult and juvenile violations of the fireworks ordinance. The penalty contained in the current ordinance is not less than \$100 and not more than \$500, and the current forfeiture schedule in Municipal Court is \$73 for juveniles and \$175 for adults. The Task Force recommends that the Common Council work with the Milwaukee Police Department and Municipal Court to raise the maximum adult forfeiture, which requires raising the base from \$102.38. The \$102.38 base actually amounts to \$175 when mandatory state penalties, clerk fees, jail and crime lab assessments are added.
- Amend s. 105-47 of the Code to mirror s. 167.10 (9)(c), Wis. Stats., which reads, “*A parent or legal guardian of a minor who consents to the use of fireworks by the minor shall forfeit not more than \$1,000.*”

- Common Council members should include information relating to the fireworks law in newsletters and press releases.
5. **Intergovernmental Relations Division – Department of Administration.**
 - This Division shall be responsible for implementing state lobbying efforts and initiating relationships and strategies with other jurisdictions and professional organizations.
 6. **Milwaukee Health Department.**
 - Include educational information on website.
 7. **Milwaukee Fire Department.**
 - Include more fireworks-related information in its public education campaign, especially around peak periods.
 8. **City Clerk’s Office.**
 - Send a letter to other municipalities in Southeastern Wisconsin referencing the findings of the Fireworks Task Force, specifically that many municipalities and fireworks vendors are not adhering to State law. The letter should state the co-chairs of the Fireworks Task Force, Alderman Davis and Alderman Witkowski, may be contacted with questions.

5. RECOMMENDATION: Intergovernmental Cooperation

The Task Force recommends coordinating efforts with other municipalities to draw attention to those fireworks vendors and municipal governments not adhering to State law. The Intergovernmental Relations Division – Department of Administration shall be responsible for implementing these recommendations and communicating status with the Common Council.

1. Send a letter to other entities referencing the findings of the Fireworks Task Force, specifically that many municipalities and fireworks vendors are not adhering to State law, and asking for support in lobbying the Legislature for statutory changes. A letter should be mailed to the following entities:
 - Milwaukee Public Schools
 - Milwaukee Public Schools Board of Directors
 - Milwaukee County Board of Supervisors
 - Milwaukee County municipalities
 - Wisconsin League of Municipalities
 - Wisconsin Towns Association
 - Wisconsin Alliance of Cities
 - Wisconsin Sheriff’s Association
 - Wisconsin Chiefs of Police Association
 - State Medical Society of Wisconsin

2. Send a letter to District Attorneys and Sheriffs in municipalities which allow vendors to sell illegal fireworks, requesting them to take action to cease all sales of illegal fireworks in their municipalities.

APPENDIX A

Common Council File No. 060529, Resolution Creating the Task Force



City of Milwaukee Common Council

Legislative File Number 060529 (version 2)

Title

Substitute resolution establishing a Fireworks Task Force.

Body

Whereas, The City prohibits the sale and discharge of all fireworks in the City, with an exception for fireworks wholesalers who ship or deliver fireworks directly out of the City; and

Whereas, However, even though fireworks are prohibited in the City, their prevalence in the City is widespread and common, and fireworks usage proliferates in the City on particular dates, especially on the 4th of July and New Year's Eve; and

Whereas, Fireworks pose substantial risks to persons engaged in discharging them and bystanders, and frequently cause serious injuries to hands, fingers, eyes, face and head, and many of these injuries are irreparable and may cause death; and

Whereas, Fireworks frequently cause substantial damage to nearby structures, vehicles and the natural environment and are a general public nuisance; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that a Fireworks Task Force is created and shall consist of:

1. The Mayor or the Mayor's designee.
2. Two Common Council members, appointed by the Common Council President.
3. One member from the 4th of July Commission, appointed by the Commission.
4. Four community members, appointed by the Common Council President.
5. One member from the Police Department, appointed by the Police Chief.
6. One member from the Fire Department, appointed by the Fire Chief.
7. One member from Municipal Court, appointed by the Chief Judge.
8. One member from the City Attorney's Office, appointed by the City Attorney.

; and, be it

Further Resolved, That the task force is directed to evaluate and make recommendations relating to decreasing the prevalence of fireworks in the City, how fireworks are getting into the City and who is distributing or selling them; and, be it

Further Resolved, That the City Clerk's Office shall provide staff support to the task force; and, be it

Further Resolved, That all City departments are authorized and directed to cooperate

with and assist the task force in carrying out its mission; and, be it

Further Resolved, That the task force may request assistance from non-city entities in carrying out its mission; and, be it

Further Resolved, That the task force shall submit its findings and recommendations to the Common Council within 6 months of adoption of this resolution and shall thereafter be dissolved.

Drafter

LRB06405-4

LCS

9/14/06

Analysis

This resolution establishes a fireworks task force to evaluate and make recommendations relating to decreasing the prevalence of fireworks in the City, how fireworks are getting into the City and who is distributing or selling them. The task force shall present its findings and recommendations to the Common Council within 6 months of adoption of this resolution, and shall thereafter be dissolved.

APPENDIX B

Agendas and Minutes from Task Force Meetings



City of Milwaukee

200 E. Wells Street
Milwaukee, Wisconsin
53202

Meeting Agenda

FIREWORKS TASK FORCE

ALD. JOE DAVIS, SR., CO-CHAIR

ALD. TERRY WITKOWSKI, CO-CHAIR

**Deborah A. Bent, Carol Bruss, Donald G. Doro, Edward Ehrlich, Melvia Ford,
Kristine Hinrichs, Joanne Jalowiec, William Rahming Sr., Sandy Schmidt, Captain
Anthony T. Smith**

**Staff Assistant Diana Morgan; Phone: (414)-286-2231; Fax: (414) 286-3456, E-mail:
dmorga@milwaukee.gov. File Specialist, Charlotte Rodriguez, E-mail:
crodri@milwaukee.gov**

Thursday, January 11, 2007

9:30 AM

Room 301-G, City Hall

1. Roll call
2. Introduction of members
3. Presentation by Jim Owczarski, City Clerk's Office, Deputy City Clerk, relative to meeting rules, procedures and open records laws
4. Task Force objectives
5. Interpretation of current city ordinances by the City Attorney's Office
6. Current Milwaukee Police Department enforcement strategies
7. Report relative to fire related incidents by the Fire Department
8. Report by the 4th of July Commission
9. Next meeting date

NOTE: a) Members of the Common Council, and members of its Standing Committees who are not members of this Committee, may attend this meeting to participate or to gather information. Therefore, notice is given that this meeting may constitute a meeting of the Common Council or any of its Standing Committees, and must be noticed as such, although they will not take any formal action at this meeting.

- b) Upon reasonable notice, efforts will be made to accommodate the needs of persons with disabilities through sign language interpreters or auxiliary aids. For additional information or to request this service, contact the Council Services Division ADA Coordinator at 286-2998, (FAX)286-3456, (TDD)286-2025 or by writing to the Coordinator at Room 205, City Hall, 200 E. Wells Street, Milwaukee, WI 53202.
- c) Limited parking for persons attending meetings in City Hall is available at reduced rates (5 hour limit) at the Milwaukee Center on the southwest corner of East Kilbourn and North Water Street. Parking tickets must be validated in Room 205, (City Clerk's Office) or the first floor Information Booth in City Hall.
- d) Persons engaged in lobbying as defined in s. 305-43-4 of the Milwaukee Code of Ordinances are required to register with the City Clerk's Office License Division. More information is available at www.milwaukee.gov/lobby or by calling 414-286-2238.



City of Milwaukee
Meeting Minutes
FIREWORKS TASK FORCE

200 E. Wells Street
Milwaukee, Wisconsin
53202

ALD. JOE DAVIS, SR., CO-CHAIR
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Deborah A. Bent, Carol Bruss, Donald G. Doro, Edward Ehrlich, Melvia Ford, Kristine Hinrichs, Joanne Jalowiec, William Rahming Sr., Sandy Schmidt, Captain Anthony T. Smith

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Thursday, January 11, 2007

9:30 AM

Room 301-G, City Hall

Meeting Convened: 9:38 A.M.

1. Roll call

Present: Davis, Witkowski, Ehrlich, Ford, Doro, Bent, Hinrichs and Bruss.

Excused: Smith, Schmidt, Rahming and Jalowiec.

2. Introduction of members

3. Presentation by Jim Owczarski, City Clerk's Office, Deputy City Clerk, relative to meeting rules, procedures and open records laws

Mr. Jim Owczarski, Deputy City Clerk, Common Council City Clerk's Office appeared before the committee to provide an overview of the open meetings and records laws.

-Anytime a majority of members meet in public or private business of the body should not be conducted.

-Rolling or walking quorum - one member calls another member and another member is called information is exchanged and decisions are made.

-When a quorum of members (8) for this body, come together and discuss any form of business related to the body, public notice must be provided.

Examples: Chance meetings are acceptable (members at a barbeque), however telephone calls might not be considered acceptable based upon the perception that business of the body may be discussed.

-Use self awareness.

-Any documentation provided to the Task Force is considered public record.

-Any information you would like to keep private should not be provided at a meeting because the information is automatically considered public information.

-The City Clerk's Office will take responsibility for meeting postings, public notice and public records.

4. Task Force objectives

Ald. Davis informed members that the goal of the Task Force is to develop recommendations to present to the Mayor and the Common Council that will implement safety standards and penalties in the city of Milwaukee relative to the use, sale or discharge of fireworks.

5. Interpretation of current city ordinances by the City Attorney's Office

Mr. Edward Ehrlich, City Attorney's Office discussed the following:

Mr. Ehrlich referenced s. 167, Wis. Stats., prohibiting the sale, possession and use of all fireworks and section 105-47 of the Milwaukee Code, which prohibits all fireworks containing any explosives of flammable compound, which is a prohibition in all fireworks.

According to Mr. Ehrlich, violation of state statutes would be a criminal offense handled by the Circuit Court of Milwaukee County with prosecution by the District Attorney. Violation under City Ordinance is considered a forfeiture action handled by Milwaukee Municipal Court and not a criminal act.

In addition data indicates that there have been less than 200 citations issued over the last 5 years by the police for violation of this section. The total number of convictions for violations for sale or use of fireworks is unclear.

Mr. Ehrlich stated the city ordinance is pretty straightforward and that prohibition is against any person selling, offering for sale, using or exploding a firecracker. Enforcement of penalties for these actions require evidence in Municipal Court that clearly identifies that the person charged is the person who sold the firecracker, the person who used the firecracker, the person who discharged firecracker or the person who exploded it.

The problem with enforcement is that when the police department receives complaints about the discharge of fireworks and arrives on the scene, the individual who engaged in the acts is gone; in this instance, the only way to enforce penalties is if there is a witness willing to come forward to make positive identification.

Mr. Ehrlich expressed concern about the tension involved in redrafting legislation, which is between giving notice to an individual as to which activity is unlawful, opposed to trying to prove it in court. He also commented that if he were defending someone in Municipal Court for the use of fireworks he might make the argument to the court that the city would need to prove that the item seized by the police contained the ingredients listed as unlawful. If there were no proof, the court could not enter a judgment because the city had not met that element.

He also indicated that another problem might be that an argument is made requesting clarification as to what is a cherry bomb, what is a blank cartridge etc? One might argue what is the legal standard for these items?

Mr. Ehrlich continued by explaining that he believed the biggest problem the city has with regard to the current ordinance is that the police would almost never be in a position to testify as to who used the firecracker, who exploded it and who discharged it.

Mr. Ehrlich also informed the committee that the bail amount set for violations of the ordinance by an adult is \$175 and \$78 for a juvenile however, a judge can impose a

sliding scale of \$0 - \$500.

Recommendations were made by members to invite both County and State Representatives to a future meeting of the task force to provide an overview of the policies enacted relative to fireworks by these entities

Alderman Witkowski presented the following questions to Mr. Ehrlich:

-Clarification of what usage of fireworks is prohibited under state law. If there are prohibitions why is it permissible in another county?

-What are the possibilities of the city suing another jurisdiction for violation of state law if the sale of fireworks affects the city of Milwaukee?

-Can there be a change to state law that would indicate that a permit for use may only be issued to a given jurisdiction unless sold to a governmental unit or a permit is held from another governmental unit?

-Alderman Davis inquired about the possibility of each jurisdiction labeling firework products for the purpose of identifying the distribution point of the products for penalties to the purchase point jurisdiction?

Mr. Ehrlich stated he would research these questions and report back to members at a future meeting.

Mr. Ehrlich continued by informing members of the following:

A law enforcement officer who encounters an individual with fireworks in his or her possession may confiscate the fireworks and issue a citation. The fireworks may be used for evidence for prosecution of the individual. The seized fireworks should be inventoried and remain in police custody for the purpose of creating a working document for possible prosecution.

The city may enact penalties reflective of Wis. Stats., with careful attention to s. 167, sub. 5 of the Wis. Stats.

Digital photos taken of individual(s) in the act of discharging fireworks may be submitted to the district alderperson or the police department as evidence for prosecution however. Witnesses must be willing to appear in court to ensure the possibility of prosecution.

6. Current Milwaukee Police Department enforcement strategies

Motion by Alderman Witkowski to hold this item to the call of the chair.

Prevailed. 8-0.

7. Report relative to fire related incidents by the Fire Department

Deputy Chief Doro, Milwaukee Fire Department discussed the following:

Deputy Chief Doro provided Exhibit (2), The Dangers of Fireworks for review and discussion by Task Force members.

Motion by Ms. Ford to make Exhibit (2), The Dangers of Fireworks document part of the record.

Prevailed. 8-0.

Motion by Deputy Chief Doro to make Exhibit (3), U.S. Consumer Product Safety Commission: Office of Compliance, Summary of Fireworks Regulations.

According to Deputy Chief Doro, there have been 8 firework reported incidents in the city; with no firework related deaths or injuries reported. There were also 3 serious property damage incidents reported as a result of firework usage.

Alderman Davis inquired whether there has been any discussion about a more proactive presence by fire department personnel to deter the use of fireworks, or any discussion about fire department deployment strategies relative to fireworks related incidents.

Deputy Chief Doro commented that he would research practices relative to these matters for discussion at a future meeting.

8. Report by the 4th of July Commission

Recommendations were made by members to invite both County and State Legislators, a representative from the Milwaukee Safety Commission and a representative from Milwaukee Public Schools, a representative from the City of Milwaukee Youth Council to a future meeting of the task force for the purpose of review and discussion of the policies enacted by other entities relative to the sale, possession and discharge of fireworks in the city of Milwaukee.

Ms. Carol Bruss, 4th of July Commission provided an overview of the creation of the 4th of July Commission.

Alderman Davis asked whether the 4th of July Commission does outreach in schools to provide an educational overview about the dangers of fireworks and to encourage the viewing of fireworks at designated parks?

He suggested the commission to look into educational partnership within the schools to provide education to students. He also suggested the commission seek collaboration efforts with Milwaukee County relative to fireworks displays.

Ms. Bruss advised members that there are approximately 8 parks that provide fireworks. She also informed members that parks which have a 4th of July Association are generally eligible to provide fireworks displays.

Recommendations

Recommendations were made by members to invite both County and State Legislators, a representative from the Milwaukee Safety Commission, a representative from Milwaukee Public Schools and a representative from the City of Milwaukee Youth Council to a future meeting of the task force for the purpose of review and discussion of the policies relative to the sale, possession and discharge of fireworks in the city of Milwaukee.

9. Next meeting date

Thursday, February 8, 2007, 1:30 P.M.

Meeting Adjourned: 11:21 A.M.

Diana Morgan

Staff Assistant



City of Milwaukee

200 E. Wells Street
Milwaukee, Wisconsin
53202

Meeting Agenda

FIREWORKS TASK FORCE

ALD. JOE DAVIS, SR., CO-CHAIR

ALD. TERRY WITKOWSKI, CO-CHAIR

*Deborah A. Bent, Carol Bruss, Donald G. Doro, Edward Ehrlich, Melvia Ford,
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Thursday, February 22, 2007

2:00 PM

Room 301-A, City Hall

1. Roll call
2. Approval of the minutes of the January 11, 2007 meeting
3. Presentation by District Attorney John Chisholm relative to Circuit Court enforcement of the sale, possession and use of fireworks in the City of Milwaukee
4. Current Milwaukee Police Department enforcement strategies
5. Public Comments
6. Next meeting date and time: Thursday, March 22, 2007, 2:00 P.M.

Members of the Common Council and its standing committees who are not members of this committee may attend this meeting to participate or to gather information. Notice is given that this meeting may constitute a meeting of the Common Council or any of its standing committees, although they will not take any formal action at this meeting.

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Meeting Adjourned: 3:40 P.M.



City of Milwaukee
Meeting Minutes
FIREWORKS TASK FORCE

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Thursday, February 22, 2007

2:00 PM

Room 301-A, City Hall

Meeting Convened: 2:07 P.M.

1. Roll call

Present: Davis, Bent, Bruss, Doro, Ehrlich, Ford, Schmidt and Smith.

Excused: Witkowski, Hinrichs and Jalowiec.

Absent: Rahming.

Also Present: Catherine Cooper, Legislative Assistant for Alderman Terry Witkowski, 13th Aldermanic District.

2. Approval of the minutes of the January 11, 2007 meeting

Motion by Ms. Bent to approve the minutes of the January 11, 2007 meeting.

Prevailed. 8-0.

3. Presentation by District Attorney John Chisholm relative to Circuit Court enforcement of the sale, possession and use of fireworks in the City of Milwaukee

Alderman Davis inquired about the steps the city would take to file suit against vendors who sell fireworks to residents who live in the city of Milwaukee where the use, sale or possession of fireworks is illegal?

District Attorney John Chisholm appeared before the committee and reported the following:

According to Mr. Chisholm, it would be difficult to apply the felony statute against individuals transporting fireworks into the city. He continued another possibility might be to enforce penalties under the misdemeanor violation that would allow a general injunction for possession of fireworks against individuals identified for bringing fireworks into the city.

Alderman Davis inquired about the possibility of requiring vendors from other jurisdictions to card individuals who purchase fireworks, similarly to the way individuals are carded when purchasing tobacco or alcohol beverages to ensure that fireworks are not sold to Milwaukee residents?

Mr. Chisholm informed members that despite the efforts of current state laws, more states now have laws legalizing fireworks than they did 5 years ago. He stated that this might be attributed to strong lobbying of fireworks manufacturers and distributors. He continued that many of the fireworks businesses viewable from the highway may contribute a major source of revenue to the township and that legislators representing those areas may be opposed to changes that may decrease revenue in their areas.

Mr. Chisholm suggested that the first incremental step might be to seek inner county cooperation creating a level of inconvenience to purchase fireworks from Racine and Kenosha counties. He commented that these counties might have some interest in new fireworks regulations due to similar problems.

Alderman Davis asked Mr. Chisholm to explain the connection between the current state statute and the current city ordinance; and what would the process be in order for the city to seek in injunction for a court order to enforce a misdemeanor offense?

Mr. Chisholm informed the committee that his research relative to this matter revealed that Wis. Stats., s. 167(5) the local regulations of fireworks has been adopted almost entirely as an ordinance violation.

In 2003 there were significant changes to Wisconsin Act 298, which was a legislative act that created civil liability exemptions for municipalities. At that time the Legislative Council inserted a prefatory note that indicated the bill was prepared for the joint legislative council's special committee on the review of the fireworks law.

The current law generally prohibits the sale of fireworks and the possession of fireworks with the intent to sale them. The exceptions are that all fireworks may be sold to a person holding a valid user's permit in a city, town or village and for certain specified purposes; the bill provides that no city, village, town or committee is civilly liable for damage to persons or property caused by the fireworks.

The Legislative Council also created a parental liability statute under s. 167.7(10) which indicates that a parent, foster parent, treatment foster parent, family operated group home parent or the legal guardian of a minor that consents to the use of fireworks by the minor is liable for damages caused by the minors use of fireworks.

What this indicates is that this matter still comes before the Legislature and is definitely an issue of concern at the local level.

According to s. 167.10(8) relative to enforcement, a city, village or a town may petition the circuit court for an order enjoining violations of sub. par. 2, 3 or 6 or an ordinance adopted under par. sub 5. This is the current enacting language, which is why you don't see these types of violations coming into circuit court right now, because it requires the injunction be in place.

Mr. Chisholm suggested that members review, certain times and certain places an injunction applied to by the circuit court would have the effect of creating criminal liability; that criminal liability is set forth in par. 9, under the penalty section par. a indicates that a person who violates the court order under sub. par. 8 shall be fined not more than \$10,000 or imprisoned not more than 9-months or both. This is an unclassified misdemeanor offense, which has the same penalty identified as a Class A misdemeanor in the criminal code, the highest level of a misdemeanor offense.

Mr. Chisholm advised that this would be the enabling language; so the discussion would

then be is it appropriate in certain circumstances to seek and obtain an injunction from the circuit court.

The most relevant under the discussed paragraphs that would essentially allow prohibition would be sub. 3, which states "no person may possess or use fireworks without a users permit"; the various paragraphs that would follow after that would offer a break down from that point.

Possession of fireworks under these circumstances would be equivalent to a Class A misdemeanor.

Mr. Chisholm responded that he had never seen this done and that this would create an interesting discussion, because there is always going to be concerns about equal treatment and due process.

He offered the following example:

On occasion, as a condition of a criminal case, the state uses a stay out of area order particularly for gang members and individuals who have been identified as a habitual problem in a specific neighborhood.

A representative from the District Attorney's Office will appear in court and lay out the facts and circumstances that would justify creating a zone that the individual would not be allowed to enter during the criminal case. The standard is that specific reason be shown as to why the individual is being excluded from the area.

Mr. Chisholm commented that he believed the task force could craft something along the same lines if they could demonstrate a sufficient basis to create a similar zone. He recommended that if there were areas in the city where there were a numerous number of calls for service for fireworks, injuries as a result of fireworks or significant property damage.

Other legislation that could be referenced for is tobacco enforcement under s. 167, which allowed the state to seek forfeiture for violations with similar prohibitions to the current Milwaukee ordinance. There were a couple of distinctions such as the Lucy single cigarette sales.

At that time the city did not have an ordinance that matched state regulations, so the state filed small claims actions to enforce Wis., Stat. s. 167 of the tobacco legislation, relating to the use of tobacco and similar products by minors.

Mr. Chisholm also informed members that it appeared that there is already enabling language in the Wis., Stats., but that what triggers it all would be an injunction from the circuit court specifically spelled out, which would automatically elevate it above the municipal level.

The only other penalty section that might have any correlation is Wis., Stats., s. 9(g), but that is only applicable at the commercial level, which elevates the offenses to felony offenses, directed more at regulation of industry and commerce.

Alderman Davis asked Mr. Chisholm to provided summarized documentation from his office regarding the information provided by Mr. Chisholm, including an outline of the injunction process.

4. Current Milwaukee Police Department enforcement strategies

Captain Anthony Smith, Milwaukee Police Department reported the following:

Captain Smith referenced 3/150.10(8) of the Milwaukee Police Departments Rules and Procedures Manual relative to Court Procedures relating to fireworks violations, which states cases shall be referred to the City Attorney's Office except in those cases where the defendant injures a person by using fireworks or cases where the defendant violates a court order pursuant to Wis., Stats., s. 167.10(a) to 8(a).

Captain Smith informed members that based upon the statutes; the Milwaukee Police Department is prepared to refer cases to the District Attorney's Office if a court order is issued under current regulations.

Captain Smith reported that in 2006 the police department received 2,512 calls for service for fireworks related issues. Of those calls, 1,267 were received between July 1st and July 7th, the other 1,245 calls were received sporadically throughout the rest of the year. In addition, in 2006 there were 164 citations issued as a result of an officer observing a violation or a citizen who witnessed the incident and who was willing to come forward as a complainant. There were also 143 instances of police officer inventoried illegal fireworks; the department incurs costs for both the inventory of these items and the disposal of the items by the bomb squad.

During the peak periods of the year Officers review policies thoroughly in preparation for the increase in calls for service. Officers also visit stores in the communities to remind them of the policies for the sale of illegal fireworks in the City of Milwaukee.

Recommendations

Ms. Bruss, Fourth of July Commission informed members that at the last meeting of the Fourth of July Commission, commission members suggested having a legislator draft a bill that would regulate the sale of fireworks throughout the State of Wisconsin to ensure uniformed enforcement.

Ms. Schmidt recommended the task force contact State Representative Barbara Toles' Office to seek state legislation making it illegal to use, sell or keep fireworks throughout the State of Wisconsin.

Alderman Davis recommended applying for an injunction relative to the illegal use of fireworks in the City of Milwaukee.

Mr. Chisholm informed the task force that a compilation of data that would include the number of calls for service, injuries, fires and other comparable issues from the Fire Department demonstrating the fiscal, injury and trauma impact to the city and to victims as a result of discharged fireworks. He continued using the data obtained during the peak periods before and after July 4th would provide a compelling case for a citywide injunction. He also recommended the inclusion of data from hospitals such as Children's, Froedert, St. Joseph's and the Eye Institute.

The city could also apply for an injunction by advertising for a period of time for the purpose of researching the cost to the city as a result of these incidents.

Task Force members requested research staff, research the abovementioned data, in addition to contacting Steve Hargarten at the Medical College (805-6454) regarding same.

Alderman Davis recommended the use of digital cameras to catch individuals in the act of discharging fireworks, specifically block watch captains.

Mr. Chisholm commented that digital cameras are permissible in court, however the authenticated source would have to be provided, in addition to clarification of how the pictures were taken.

Mr. Ehrlich commented that still pictures may provide more solid evidence in court because they cannot be alter.

Alderman Davis asked if there was a requirement for official identification when purchasing fireworks?

Mr. Ehrlich requested confirmation about requiring establishments who sell fireworks outside the city to obtain notarized sworn statements for sales of fireworks to individuals.

Mr. Chisholm responded that it is set forth under statue that the name and address of a permit holder must be provided. He commented that an option might be to insert a clause that would include the name and address of the permit holder and the following statement:

No permit shall be issued to a municipality that prohibits the possession of fireworks.

Ms. Schmidt recommended that both the date of birth and telephone number also be a requirement for the purchase of fireworks, to determine the average age of individuals who purchase fireworks and to ensure that fireworks are not sold to individuals under the age of 21 similar to the requirement for the purchase of alcohol and guns.

Mr. Chisholm commented that there is no requirement for an individual's date of birth as part of identification. He also informed members that state statutes would have to be amended to include these changes; he also stated that he was not sure if there was any directive in the administrative code relative to identification requirements.

Mr. Ehrlich advised members that pursuant to Wis., Stats., s. 167.10(5), Local Regulations, the city cannot pass any legislation to regulate any other jurisdiction; the city can however enforce their own local regulations, that are stricter than state regulations.

Ms. Schmidt recommended that the city partner with insurance companies to write provisions in homeowner policies regarding incidents involving the illegal discharge of fireworks.

Mr. Ehrlich advised members that the city could not force insurance companies to comply, however they could make the recommendation.

Ms. Ford asked about the implications of insurance provisions to a property owner where violations are caused by a tenant?

Ms. Bent recommended a media campaign advising residents about the consequences of illegal use of fireworks during the peak periods of the year.

Ms. Cooper recommended the establishment of Intergovernmental relationships within the boundaries of the City of Milwaukee with the County Supervisors to have signs posted in the parks indicating the discharge of fireworks in county parks is illegal with the display of city ordinance section and the penalty.

Ms. Schmidt recommended seeking partnership with non-profit organizations to pay for the billboard advertisements throughout the city during the more prevalent periods of firework use in the city.

Ms. Bent recommended inviting a representative from Milwaukee Public Schools to a future task force meeting to discuss the implementation of education in the schools regarding the consequences of illegal use of fireworks in the city.

Ms. Cooper recommended contacting Neighborhood Associations to ask them get the word out through their meetings and flyers about the illegal use of fireworks.

5. Public Comments

There were no public comments.

6. Next meeting date and time: Thursday, March 22, 2007, 2:00 P.M.

Meeting Adjourned: 3:40 P.M.

*Diana Morgan
Staff Assistant*



City of Milwaukee

200 E. Wells Street
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53202

Meeting Agenda

FIREWORKS TASK FORCE

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Monday, March 26, 2007

9:30 AM

Room 301-A, City Hall

1. Roll Call
2. Approval of the minutes of the February 22, 2007 meeting
3. Communication by representatives from the Milwaukee Sheriff's Department relative to their fireworks enforcement strategies
4. Review and discussion of reports
5. Public comment
6. Next meeting date and time:

Members of the Common Council and its standing committees who are not members of this committee may attend this meeting to participate or to gather information. Notice is given that this meeting may constitute a meeting of the Common Council or any of its standing committees, although they will not take any formal action at this meeting.

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City of Milwaukee
Meeting Minutes
FIREWORKS TASK FORCE

200 E. Wells Street
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53202

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Staff Assistant Diana Morgan; Phone: (414)-286-2231; Fax: (414) 286-3456, E-mail: dmorga@milwaukee.gov. File Specialist, Charlotte Rodriguez, E-mail: crodri@milwaukee.gov

Monday, March 26, 2007

9:30 AM

Room 301-A, City Hall

Meeting Convened: 9:35 A.M.

1. Roll Call

Present: Davis, Doro, Ford, Hinrichs, Bruss, Jalowiec, Rahming, Smith and Ehrlich.

Bent and Schmidt arrived at 9:50 A.M.

Ald. Witkowski arrived at 9:55 A.M.

2. Approval of the minutes of the February 22, 2007 meeting

Motion by Ms. Bruss to approve the minutes of the February 22, 2007 meeting.

Prevailed. 9-0.

3. Communication by representatives from the Milwaukee Sheriff's Department relative to their fireworks enforcement strategies

Captain Bret Richards, Milwaukee County Sheriff's Department, Patrol Division and Sergeant Tobie Weberg appeared before the task force to discuss the strategies used by the Sheriff's Department to address fireworks' related issues in Milwaukee County Parks.

Sergeant Weberg informed members that the Sheriff's Department's initial focus was to address the illegal discharge of fireworks, however the more serious matters took precedence. He expressed concern about the large number of increasing incidents affecting the quality of life for citizens at McGovern Park. He stated that the problems seem to increase each year generally starting prior to the fireworks displays. There were several incidents in 2006 involving the brandishing of guns, damage to vehicles and residential properties, looting and the discharge of fireworks by youth. He informed members that the Sheriff's Department deployed as many as 120 officers to McGovern Park on July 3rd and July 4th last year, including in ride gear, horses and dogs.

Captain Richards informed members that he was also on duty July 3rd and 4th, and that deputies were deployed to several parks throughout the county with 20 deputies initially deployed to McGovern Park and a minimum of 10 deputies each deployed to several other parks throughout the county.

He stated deputies spent the majority of their time issuing citations at other county parks

such as Jackson Park for the illegal and unsafe discharge of fireworks and addressing emergencies where someone fell or was sick. Even though the issues were not as serious in some of the other parks, addressing these types of matters also depleted his department's resources.

According to Captain Richards, people were behaved at most of the parks, with the exception of the discharge of the illegal fireworks; which upset the law abiding citizens who were there to enjoy the fireworks, they felt that deputies were not enforcing the law relating to illegally discharged fireworks.

The problem was that the Sherriff's Department had already used all of their available resources and were responding to other calls. This resulted in the department receiving complaints as an agency, stating they were not doing their job. The fact of the matter was that as their calls for service increased and the department had to prioritize the calls.

Captain Richards continued that towards the later evening hours, juveniles began to saturate McGovern Park. The sense was that most of the young males didn't reside in the area, but that the area was a known congregating spot. At this point officers were deployed to various areas throughout the park to address issues, such as 15 or more youths gathering on corners, car loads of kids driving at excessive speeds, loud music and other inappropriate behavior.

As Captain Richards communicated with officers at the various parks about their status, he began to prioritize McGovern Park by deploying officers from the other parks over to McGovern. As the evening progressed, the county jail was closed completely and all available resources were deployed to McGovern Park.

According to Captain Richards, there were very few problems from families who had come to the park to cook out and to enjoy the fireworks; it was the unsupervised youths creating havoc. Prior to the fireworks going off, a gun was fired, which caused more problems.

The Sherriff's Department planned to close McGovern Park immediately after the fireworks. Crowds were dispersed from the park, the young people began to go throughout the neighborhood jumping on cars and knocking on doors.

At that point city of Milwaukee Police Officers joined forces with the Sherriff's Department, which resulted in the deployment of approximately 150 officers. City of Milwaukee officers took care of traffic control one-way, so the sheriff's deputies could route people out of the vicinity of the park to prevent cruising.

As officers continued to clear the park, individuals who were leaving began fighting about 2 blocks west of the park. The problems continued down Villard to a gas station where approximately 400-500 kids gathered creating a party zone. It took officers an additional 2 hours to disperse the crowds and to regain order in the neighborhoods closest to McGovern Park.

Captain Richards informed members that similar incidents have occurred in previous years, however the problems seem to be intensifying, which is clear evidence that fireworks displays should be discontinued at McGovern Park. He continued that it is unfortunate that families who look forward to the fireworks each year can't really enjoy them, however he feels it imperative that he expresses the seriousness of the incidents that are occurring and the potential for disastrous consequences due to the actions of the young people coming to the park.

Captain Smith, Milwaukee Police Department discussed collaboration strategies between the Sheriff's Department and the Milwaukee Police Department.

Members of the task force asked whether there had been any collaboration between the Sheriff's Department and the Milwaukee Police Department to address fireworks related issues?

Captain Smith informed members that annually, the incident commanders from both the Sheriff's Department and the Milwaukee Police Department meet to review and divided the resources available between the two entities relating to scheduled events throughout the city, including fireworks displays. This collaborative effort is called "Directed Patrol Missions" (DPM's).

According to Captain Smith, during the July 4th holiday all of the department's officers are utilized to assure maximum coverage for any incidents that may occur. The only off days for officers during that period are for those with scheduled vacation.

Captain Smith provided members with an overview of the cost to the department during the week of July 1st - 7th. He advised members that the numbers he had were very basic averages.

He informed members that officers spend approximately 18 minutes on an assignment (issuance of a citation, didn't find anyone etc.), during this time officers responded to 1,245 calls for service. Officers are paid straight time, which costs approximately \$10,300. Overall officers spend approximately 22,410 minutes during that one-week period responding to calls for service.

Of the 2,512 calls for service the department received in 2006, 50% or 1,267 calls for service were received in the one-week period from July 1st - July 7th, the other 50% of calls for service are scattered throughout the year.

Captain Smith continued that his biggest concern are incidents like the one that occurred at McGovern Park last year. He stated that when the Sheriff's Department gives official notice that the fireworks are over and the park closes, individuals leaving the park have to go somewhere, so they go into the neighborhoods and continue the problems that initiated in the park.

Captain advised members that when you look at the number of citations issued for calls for service you might think that a very small number of citations were issued, however, they are prioritized so officers are not able to address fireworks related calls for service in a timely manner, and are not able to investigate fireworks complaints to the extent that they are able to obtain solid evidence that would lead to prosecution.

He continued that once the problems spread into neighborhoods the department is dealing with bigger issues that take precedence over priority 4 fireworks calls.

Alderman Witkowski asked how soon prior to July 4th does the department begins to receive fireworks related calls for service?

According to Captain Smith, calls began as early as New Years Day with approximately 4 - 6 calls and continue sporadically throughout the year. The calls start to increase around mid June with the highest number of calls received July 1st - July 11th. He commented that individuals may began to purchase fireworks as early as April for discharge in June and July.

4. Review and discussion of reports

Mr. Ehrlich provided members with a copy of a \$4 fireworks permit (Exhibit 1), which he purchased from a store right off the expressway in the Town of Raymond. He offered members an overview of the process involved in the purchase.

Mr. Ehrlich directed members to the disclaimer statement in the permit he purchased :

This permit is issued upon the recipient agreeing to defend, identify, and hold harmless the Town of Raymond and Blackjack Fireworks, LLC in any civil action for any accident or injury occasioned during transportation, handling, storage and/or use of any amount of (D.O.T.) Class "C" fireworks whether the claimant is the user or a third party.

The permit further indicated that there is no permitted usage of fireworks in the Town of Raymond by the possessor of the permit.

Mr. Ehrlich commented that he did not believe the permit was consistent with the requirements as set forth in the state statute. He continued that he thought that the ability to purchase fireworks in other Wisconsin counties would have to be attacked on the state level and that the state would have to enforce state law against the Town of Raymond.

He reported that it was relatively easy to purchase fireworks despite the illegality to possess them in the City of Milwaukee. He informed members that according to the statute a permit may be issued to a public authority, a fair association, an amusement park, a park board, a civic organization and a group of residents or non-resident individuals.

Mr. Ehrlich stated that if the permissibility for non-resident individuals to buy a permit to purchase fireworks was struck from the statute, it would be illegal to purchase a permit for to buy fireworks to into other jurisdictions where the possession of fireworks is illegal.

Alderman Witkowski recommended that a representative from the Town of Raymond or the regulating agency be invited to a future Fireworks Task Force meeting.

Ms. Hinrichs recommended the task force request an Attorney General's Opinion or request that the Attorney General investigate whether a municipality was illegally issuing permits to purchase fireworks.

Alderman Davis asked Mr. Ehrlich whether the city of Milwaukee could file a formal complaint against the Town of Raymond for issuing permits and selling fireworks to individuals who live in a municipality where it is illegal to possess fireworks; or argue the fact that the Town of Raymond finds it legal to sale fireworks but illegal to discharge them in the Town of Raymond?

Mr. Ehrlich responded that he believed the only option the city of Milwaukee has is to ask the Attorney General to issue an opinion as to whether or not the scheme as it currently exists is being used by the Town of Raymond or any other town comports with the requirements of the state statute. He informed members that the city of Milwaukee has no authority to file a complaint or take any other action against the Town of Raymond for actions they take in their own jurisdiction.

According to Mr. Ehrlich, from a legal standpoint, before you can bring a cause of action you must have some standing to do so; he continued he doesn't believe the city has any

standing because, from a cursory standpoint, the Town of Raymond is sort of complying with state law and that state law would have to be changed to challenge current acts. Without information to substantiate action or the request for action against another jurisdiction.

Alderman Davis asked that representatives from the Sheriff's Department, Milwaukee Police Department and the Fire Department submit a request to Sheriff Clark, Chief Hegerty and Chief Wendtlandt asking each to forward a report or statement to the Fireworks Task Force expressing their position on the sale, possession and discharge of fireworks in the City of Milwaukee.

Alderman Davis requested Ms. Silletti research current legislation for municipalities in surrounding Milwaukee areas relative to the sale or possession of fireworks in their jurisdictions. He also asked Ms. Silletti to research the current requirements for membership to the 4th of July Commission.

Recommendations

- Stricter Enforcement*
- Education (students in schools and families)*
- Public Announcements (various media outlets)*
- Support of enforcement by the Safety Commission*
- Prepare comprehensive data to submit to state legislators that will identify the adverse impact the sale of fireworks by surrounding municipalities has on the municipalities where fireworks are illegal.*
- Police and Sheriff Departments include the Citywide Blockwatch Council as another outlet for informational purposes, to incorporate citizen collaboration, so that blockwatch captains are provided information that could be distributed to residents identifying ways they can assist with the enforcement of illegal fireworks possession and discharge in the city.*

6. Next meeting date and time:

Thursday, April 19, 2007, 1:00 P.M.

Meeting Adjourned: 11:15 A.M.

*Diana Morgan
Staff Assistant*



City of Milwaukee

200 E. Wells Street
Milwaukee, Wisconsin
53202

Meeting Agenda

FIREWORKS TASK FORCE

ALD. JOE DAVIS, SR., CO-CHAIR

ALD. TERRY WITKOWSKI, CO-CHAIR

**Deborah A. Bent, Carol Bruss, Donald G. Doro, Edward Ehrlich, Melvia Ford,
Kristine Hinrichs, Joanne Jalowiec, William Rahming Sr., Sandy Schmidt, Captain
Anthony T. Smith**

**Staff Assistant Diana Morgan; Phone: (414)-286-2231; Fax: (414) 286-3456, E-mail:
dmorga@milwaukee.gov. File Specialist, Charlotte Rodriguez, E-mail:
crodr@milwaukee.gov**

Thursday, April 19, 2007

1:00 PM

Room 301-B, City Hall

1. Roll Call
2. Approval of the minutes of the March 26, 2007 meeting
3. Communication from the Milwaukee Police Department - Safety Division relating to strategies used to address issues associated with fireworks in the City of Milwaukee
4. Discussion and review of reports related to the sale and prohibited use of fireworks
5. Next meeting date and time

Members of the Common Council and its standing committees who are not members of this committee may attend this meeting to participate or to gather information. Notice is given that this meeting may constitute a meeting of the Common Council or any of its standing committees, although they will not take any formal action at this meeting.

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City of Milwaukee

200 E. Wells Street
Milwaukee, Wisconsin
53202

Meeting Minutes

FIREWORKS TASK FORCE

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Thursday, April 19, 2007

1:00 PM

Room 301-B, City Hall

Meeting Convened: 1:05 P.M.

1. Roll Call

Present: Davis, Witkowski, Ford, Doro, Smith, Rahming, Ehrlich and Bent.

Also present: Leslie Silletti, Legislative Research Analyst.

Excused: Bruss, Jalowiec, and Hinrichs.

Ms. Schmidt arrived at 1:25 P.M.

2. Approval of the minutes of the March 26, 2007 meeting

Motion by Alderman Witkowski to approve the minutes of the March 26, 2007 meeting.

Seconded, by Deputy Chief Doro.

Prevailed. 8-0.

3. Communication from the Milwaukee Police Department - Safety Division relating to strategies used to address issues associated with fireworks in the City of Milwaukee

Mr. Robert Wagler, Milwaukee Police Department - Safety Division, advised members of the following efforts taken by the Safety Division to address the illegal use of fireworks in the city of Milwaukee:

- They follow regulating fireworks ordinance 105-47.*
- Distribute bulletins 1 month prior to the beginning of celebrations in the city.*
- Periodic announcements or news releases advising residents that anything that smokes, sparks or bangs is illegal.*

Mr. Wagler informed members that in June 2006, the Chief of Police received a letter from a constituent prior to the development of the task force expressing health concerns that may be associated with smoke and other chemicals released due to the discharge of fireworks. Mr. Wagler's office, the Health Department and the Safety Commission met with the constituent to address her concerns.

After considering the concerns, the Health Department stated there was not much they could do and that many of the issues were not their domain. Mr. Wagler also explained

the role of the Safety Division; which has been to periodically put out news releases through its public information officer who would disseminate the information to the local media outlets, however it is ultimately up to the media outlets to promote the stories they believe are news worthy.

The Safety Commission backed the efforts of the Safety Division, however the Commission's Chairman stated the "commissions' involvement was limited". He did request the Safety Commission's Community Service Division within the Milwaukee Police Department and the Health Department include in their community wide bulletin information reminding citizens that the sale, possession or discharge of fireworks are illegal in the city of Milwaukee.

Additionally, Mr. Wagler contacted the individual responsible for authorizing fireworks sells at State Fair Park to advise them that the Safety Division was trying to bring awareness to the community about the illegal use of fireworks, as well as determine the impact fireworks have on the quality of life.

The individual responded that it was legal to sell fireworks at State Fair Park and made little effort to work with Mr. Wagler's office. However after receiving negative media feedback about the sells, he assured Mr. Wagler that he would not be coming back to sell fireworks at State Fair Park in the future.

Mr. Wagler informed members that the majority of fireworks complaints are received and enforced by the Milwaukee Police Department and that the Safety Division rarely, if ever, received calls.

Alderman Davis requested Ms. Silletti research through State Fair Park governance the authorizing entity who approves fireworks sells at State Fair Park.

Motion by Alderman Witkowski to have a representative from the Safety Division serve as an advisor on the Fireworks Task Force for the duration of the task force, especially relating to public education.

Seconded, by Deputy Chief Doro.

Prevailed. 9-0.

4. Discussion and review of reports related to the sale and prohibited use of fireworks

Deputy Chief Doro presented Exhibit 1 (Model Fireworks Laws); he informed members the model is reviewed and updated annually and advises about the dangers and regulatory requirements surrounding the discharge of consumer fireworks.

Alderman Davis asked members to review and extract data from the report that may be implemented into state legislation, in addition to any data that could be used for local enactment and inclusion in the final recommendation. This item will be tabled for discussion at the next task force meeting.

Ms. Schmidt presented Exhibit 2, a memo from Representative Kerkman and Representative Steinbrink to all legislators reintroducing fireworks legislation initiated in 2003 by the Legislative Council Study Committee, containing recommendations concerning fireworks law.

Exhibit 3, submitted by Senator Barbara Tole's Legislative Assistant, Traci Peloquin at the request of Ms. Schmidt.

Members reviewed position letters from Chief Wendtlandt and Chief Hegerty.

Exhibit 5, Memo identifying fireworks ordinances for surrounding municipalities, submitted by Ms. Silletti.

Alderman Davis requested Mr. Ehrlich draft a position letter from the task force to co-sponsors of state legislation prior to May 4, 2007, asking for state action to ban non-permit fireworks in the State of Wisconsin. He also asked Mr. Ehrlich to outline any inconsistencies in the State Statute.

Recommendations

Task Force members suggested the following recommendations be included relative to Safety Division support:

A more proactive role by the Safety Division to include collaboration with the Police Department and other entities to address public safety relating to hazards caused by fireworks

More aggressive public outreach

Coordinate informational campaigns to get the word out (media events - with television coverage)

-Development of informational brochures by the Safety Division explaining the hazards of fireworks; and seek donations to offset costs for flyers and brochures

-Distribution of brochures at parks during fireworks events advising citizens that fireworks are illegal

Include matters related to fireworks for discussion at Safety Division meetings

Stricter criteria and monitoring that would include review of policies for issuance of permits and analysis of surrounding safety conditions at locations of fireworks displays

Make recommendations to the police department or city of Milwaukee so that the appropriate action may be taken by the appropriate entity.

5. Next meeting date and time

To be determined.

Meeting Adjourned: 2:24 P.M.

Motion by Ms. Bent to adjourn meeting.

Seconded, by Deputy Chief Doro.

Prevailed. 9-0.



City of Milwaukee

200 E. Wells Street
Milwaukee, Wisconsin
53202

Meeting Agenda

FIREWORKS TASK FORCE

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crodri@milwaukee.gov**

Wednesday, May 9, 2007

1:00 PM

Room 301-B, City Hall

1. Roll Call
2. Approval of the minutes of the April 19, 2007 meeting
3. Communication by Mr. Juan Colas, Assistant Attorney General relative to State fireworks enforcement strategies and the process for the enactment of new fireworks laws
4. Communication by Mr. James Koleas, Chairman of the Safety Commission relative to strategies used to address issues surrounding illegal fireworks
4. Discussion of reports and task force recommendations
5. Next meeting date: Thursday, May 31, 2007, 1:00 P.M.

Members of the Common Council and its standing committees who are not members of this committee may attend this meeting to participate or to gather information. Notice is given that this meeting may constitute a meeting of the Common Council or any of its standing committees, although they will not take any formal action at this meeting.

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City of Milwaukee
Meeting Minutes
FIREWORKS TASK FORCE

200 E. Wells Street
Milwaukee, Wisconsin
53202

ALD. JOE DAVIS, SR., CO-CHAIR
ALD. TERRY WITKOWSKI, CO-CHAIR

Deborah A. Bent, Carol Bruss, Donald G. Doro, Edward Ehrlich, Melvia Ford, Kristine Hinrichs, Joanne Jalowiec, William Rahming Sr., Sandy Schmidt, Captain Anthony T. Smith

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Wednesday, May 9, 2007

1:00 PM

Room 301-B, City Hall

Meeting Convened: 1:07 P.M.

1. Roll Call

Present: Davis, Witkowski, Bent, Bruss, Ehrlich, Ford, Hinrichs, Jalowiec, Rahming, Schmidt and Smith.

Also present: Leslie Silletti, Robert Wagler and Florence Dukes.

Excused: Doro.

Alderman Witkowski arrived at 1:14 P.M.

Ms. Schmidt arrived at 1:20 P.M.

2. Approval of the minutes of the April 19, 2007 meeting

Motion by Ms. Bent to approve the minutes of the April 19, 2007 meeting.

Seconded, by Mr. Ehrlich.

Prevailed. 9-0.

3. Communication by Mr. Juan Colas, Assistant Attorney General relative to State fireworks enforcement strategies and the process for the enactment of new fireworks laws

Mr. Juan Colas, Department of Justice appeared before the Fireworks Task Force and discussed the following:

According to Mr. Colas, an important part of the background to the issue of illegal fireworks in Wisconsin is the societal ambivalence about fireworks. People don't want fireworks to be legal, but still want to have the ability to purchase them. In that respect he stated, they are very similar to gambling. He commented that he believed that this was an important backdrop to consider when you began to talk about enforcement and potential legislative solutions relative to fireworks.

He also advised the task force that the Department of Justice had no enforcement authority with respect to fireworks or criminal law enforcement. In Wisconsin the Department of Justice has never been a general law enforcement agency with jurisdiction throughout the state for all kinds of crimes, because there is a very strong tradition in

Wisconsin of local control and local discretion. They only have the authority specified in the statutes. Justice agents do not have the authority to stop at the fireworks stands or stores off the interstate nor prosecute, unless a District Attorney requests their assistance. The Department of Justice's primary role has been an educational one, providing advice to local law enforcement, the general public and to individuals who present questions to them, (ex. town chairs, fire chiefs, and the general public). The department also puts together an annual outline of firework's laws, which are made available to law enforcement on the Internet at www.wiley.net a website maintain by the Department of Justice. They also send the information out upon request to anyone who asks for it.

Mr. Colas informed members that the potential for legislative change is not very promising, in terms of tightening up fireworks regulations. Legislation introduced in the last legislative session was essentially to eliminate fireworks regulations in Wisconsin. The legislation died in the assembly. The attempt to eliminate regulations gives a sense of where the legislators are relative to addressing fireworks. Mr. Colas continued that he believed that there is existing authority that is ample to deal with fireworks problems.

He advised that a large proportion of what the fireworks stands and stores are selling is illegal and that the permits that they issue are not valid and have no legal value. According to Mr. Colas any permit issued by a vendor opposed to issuances by a directed official is illegal.

Mr. Colas explained that there is already authority vested in local units of government for enforcement of the existing fireworks statutes, but that they are very localized and depend on the towns, villages, cities or the district attorney and the sheriff in rural areas to decide to make enforcement of illegal fireworks a substantial priority.

He commented that some municipalities receive revenue from the sales of the permits and property taxes from the locations of the stores in their towns, so there is very little incentive to stop the sale of fireworks and the distribution of invalid permits, especially when the detonation problem is not occurring in the towns where they are being sold, especially when the municipality reaps the benefits from the profits.

Mr. Colas continued, that on the plus side there are other municipalities like Milwaukee with local officials who are concerned about individual's ability to purchase fireworks and the continual use of invalid permits. For example, the sheriff of Washburn County finally got fed-up and drafted a permit for his county. He submitted a draft of the permit to the Justice Department for review. After the legality of the permit was confirmed, the sheriff sent the permit around to all of the town chairmen in his county along with a letter that advised that anyone using a permit other than the official permit approved for the county, would be in violation of using an illegal permit and cited. He also wrote a column in the county's local newspaper publicly expressing his position about the use of illegal permits and the consequences of such use.

Mr. Colas commented that he believed that the steps the Sheriff implemented were pretty solid and that he had taken a firm stand to address illegal sales of fireworks in his jurisdiction.

He continued that this kind of movement might be a source of potential pressure for legislative enactments that might tighten things up or create incentive for towns to enforce the law or penalties for not enforcing them. That pressure could come from fire departments or the police department

The medical community has also been involved in fireworks issues in the past because of the injuries sustained from fireworks, in particular ophthalmologists, pediatricians and emergency room physicians. These professionals have spoken in favor of stricter fireworks enforcement and may oppose any further liberalizing of fireworks laws; they may also provide support for initiatives to make issues surrounding fireworks a higher priority for local governments.

Mr. Colas continued by referencing a report from Beloit where the fire department responded to a fireworks related fire. Upon the fire department's arrival on the scene, the individuals responsible for causing the fire began to shoot fireworks at the fire trucks and equipment.

According to Mr. Colas, the situation in this instance is that there is a store selling the fireworks in another municipality, outside of Beloit. The town where the store is located has no interest in enforcing state law or a town ordinance against the store, so they definitely have a problem.

Another approach may be collaboration with surrounding counties and towns to try to crack down on the sales of fireworks; which is a challenge because of the loss of economy, in addition to other priorities the municipalities may have other than enforcing fireworks regulations especially when they aren't causing any harm in the municipality where they are being sold.

Ms. Schmidt commented that the sell of fireworks by vendors issuing invalid permits appear to be a conflict of interest.

She asked whether anything could be done legally to put an end to sales based on this?

Mr. Colas responded, that he didn't know if anything could be done from the standpoint of a conflict of interest, however the sale of those fireworks to someone who does not hold a valid permit is a violation of state law.

He continued that the Department of Justice's position is that the permit would be invalid because state law only authorizes the top official at the municipal level, whether it is the Mayor, village president or town chair to issue a permit or to delegate the authority to issue a permit to a municipal employee. The delegation of that authority to a vendor is beyond the scope of the statute and beyond the what's allowed by the statute.

Mr. Ehrlich asked who would be in violation in an instance like this, would it the town mayor for permitting this to happen or the vendor?

Mr. Colas responded, clearly the owner of the store is violating of the law when he sells fireworks under an invalid permit, this is an illegal sale of fireworks, which is a violation.

He continued that a municipal official who performs an act in excess of his authority might be committing misconduct in public office.

Mr. Ehrlich asked, who would have jurisdiction to prosecute for that?

Mr. Colas responded, the District Attorney.

Mr. Ehrlich asked whether there would be any theory of law under which the Department of Justice could be involved?

Mr. Colas responded, he believed only if requested by a District Attorney to participate in the prosecution.

Ms. Hinrichs asked in an instance where a citizen was injured by illegally sold fireworks, could the city be a complainant or the injured citizen?

Mr. Colas responded, the victim might have some ability to sue the vendor who sold the illegal fireworks that caused him an injury, but he was not sure the city would have any standing to sue or file a complaint.

In addition, a citizen could not directly have a complaint issued, because the fireworks statute provides only a civil forfeiture violation and there are provisions in the criminal code under which a citizen can have a criminal complaint issued through a judge; however he did not believe this would apply in a civil forfeiture situation.

Mr. Colas continued that even if a citizen living in the town of Raymond wanted to see the sale of fireworks stopped, he did not believe he could go to a judge and have a complaint issued against the vendor. Basically, as a citizen, he would not have the standing to seek an injunction against a vendor to prevent a sale.

Ms. Hinrich asked if a citizen of a town might have some standing to file a complaint for misconduct in public office?

Mr. Colas responded, a District Attorney could prosecute misconduct in public office, but that he did not know how viable that prosecution would be or that it has ever been done and that he thought it might be a difficult prosecution to undertake.

Mr. Rahming asked whether the state had jurisdiction to audit the permits of any given fireworks distributor and to prosecute on each illegal permit issued?

Mr. Colas responded, that the state has no jurisdiction to prosecute on any of these violations or the authority to conduct audits of the issuing of the permits or check to determine whether sells corresponded to permits that had been issued.

Mr. Rahming asked who would have the jurisdiction to address fireworks sales in the same manner you would the illegal sales by bars and liquor stores for the illegal sale of alcohol to minors.

Mr. Colas responded the authority to act against those sales would rest with the local officials, which would be the sheriff's department or the District Attorney in specific counties. The town could also seek an injunction against the store; which seems unlikely if it has allowed the store to operate.

Alderman Davis referenced a copy of the Town of Raymond fireworks permit with the stamped signature of the town chairman. He asked if the town chairman's signature would be required at the time the permit was issued?

Mr. Colas responded that the reason a permit sold by the vendor is not valid, even though it may bear a facsimile signature of the town chairman, is that the name of the person to whom the permit had been issued was filled in by the vendor, so the vendor was the one who really issued the permit and not the town chairman.

Mr. Colas also advised the task force that the other reason the sample permit they had from the Town of Raymond was illegal was because it was issued to an individual and not

a group.

Mr. Ehrlich commented that he believed the language in 167.10(3) of the state statutes indicating that the mayor or designated city official are authorized to issue fireworks permits had been; because with the Town of Raymond permit, the village president has somehow given his stamp of approval to the fireworks vendor by providing a stack of the permit's to him.

Mr. Colas responded that the Town of Raymond is possibly receiving at least a couple of dollars from the sale of each of the permits and for some towns, this amounts to tens of thousands of dollars of revenue per year.

Mr. Colas continued that an example would be the difference between vendors of hunting and fishing licenses who are authorized agents of the Department of Natural Resources, which gives them the authority to sell hunting and fishing licenses; with the fireworks vendor, there is no authority to issue a permit.

Mr. Ehrlich stated that it was not immediately unarguable that the town chairman could not do what he's done in this instance. He continued by referencing a copy of a bill that is currently in the legislature that cleans up the language by saying an official or an employee of the city, village or town may issue a permit under this paragraph only, at a location where he or she in the normal course of municipal affairs carries that responsibility. Further, he stated he believed that this would certainly remove any question about the ability to purchase the permits.

Mr. Colas responded that he didn't think there were any questions except those the fireworks industry has tried to create. He continued that it is clear that only an official or an employee of the municipality designated by the mayor, president or chairperson is authorized to issue a fireworks permit. However if a vendor has a W2 showing he is an employee of that municipality and has a letter of authority from a town chairman, he has been designated the authority to issue the fireworks permit, but absent those things it is pretty clear based upon the language cited would make it undisputable.

He continued, that he thought it disingenuous for the fireworks vendors to pretend that the permits are anything but invalid.

Mr. Colas informed members that he had recently received a complaint about permit from the chairman from the town of Vernon. After review of the permit Mr. Colas determined that there approximately five different ways the permit was invalid.

Ms. Schmidt asked if the state could go after the vendors for not collecting the proper sales tax?

Mr. Colas responded, that in preparation for the task force meeting he asked the Department of Revenue to provide the dollar value of fireworks sales in Wisconsin, based upon sales tax receipt data.

He commented that the Department of Revenue could only provide a rough estimate from aggregated data of all retail businesses that have the word fireworks in their name. There were 36 retail businesses in Wisconsin that fell under this category; who submitted \$14,000,000 of taxable sales and submitted sales tax receipts of approximately \$750,000 in 2006. This indicates they are paying sales taxes.

In addition, of the \$14,000,000 of sales, some are legal sales, sparklers, fountains and

caps. However there is no way from sales tax data to know whether they sold a candy bar or mortars, because they only have the gross sales tax receipts.

Alderman Davis asked whether the city of Milwaukee could become a complainant to file a claim against another city that may be issuing illegal permits and have the District Attorney from the other town litigate the claim?

Mr. Colas responded, anyone can complain about an alleged crime, but that he doubted that in a formal sense of having some way of compelling or initiating a legal action in the other county.

He continued that the city of Milwaukee certainly has the ability to file a claim, however the District Attorney has the discretion to say whether this action would be a priority for its office. Further, even for law enforcement officials who want to enforce the statutes, there are some difficulties in the statute that he believed was purposely put there to make enforcement more difficulty.

For example, "you can only seize and retain fireworks that are the subject of the violation itself". So if there was a sale of illegal fireworks, you can seize the fireworks that were involved in that sell, with no obligation to return them. However, no other property could be seized.

Captain Smith asked whether it was illegal for the Milwaukee Police Department, to issue a citation and remove all fireworks products from a store, due to the fact that the possession of fireworks are illegal in the city according to the Milwaukee Code of Ordinances?

Mr. Colas responded, according to the state statute, only fireworks that are the subject of a violation of this section or an ordinance adopted under subsection 5 may be destroyed after a court order, conviction or violation except as provided in Wis., Stats., s. 968.20(4). Further, fireworks that are seized as evidence of a violation for which no conviction results, shall be returned to the owner in the same condition as they were when seized.

Captain Smith commented that he was under the impression that the issuance of a citation along with seizure and destruction of fireworks in the city of Milwaukee by a police officer was permissible, simply because the possession of fireworks is illegal.

Mr. Colas responded that it would depend on how the citation was issued; whether it was issued per item that the store is in possession, or some how be aggregated into one violation.

Mr. Ehrlich commented that he didn't see any reason why officers could not continue to issue citations under one violation regardless of the number of fireworks confiscated. He stated the city's current ordinance appears to be stricter than the state statute and prohibits the mere possession of fireworks.

Mr. Colas responded that the state statute also prohibited the possession of fireworks without a permit, but that they can be possessed for resale; so the possession of fireworks by a vendor is not illegal. Conceivably a person may enter a store with a permit and purchase fireworks for a group. The only way the sell would be illegal is if fireworks were sold without a permit. The difference in Milwaukee is that it is illegal for anyone to possess fireworks.

Mr. Colas informed members that he would provide a summary identifying the conditions by which a fireworks permit is legal.

4. **Communication by Mr. James Koleas, Chairman of the Safety Commission relative to strategies used to address issues surrounding illegal fireworks**

Mr. Koleas, Chairman of the Safety Commission appeared before the task and provided the following:

Mr. Koleas informed members that the Safety Commission has no direct authority over the Safety Division and their main role was to serve as an advisory board to the Safety Division; to help identify issues, develop programs and policies, receive reports and review recommendations.

He advised members that he had reviewed the current draft recommendations by the task force and would determine what assistance the commission could provide in addition to what the Safety Division had already provided.

Alderman Davis requested that the Safety Commission submit a position letter to the task force prior to June 12th.

4. **Discussion of reports and task force recommendations**

Ms. Florence Dukes, Director of the Safety Division, Milwaukee Police Department appeared before the task force.

Ms. Dukes provided Exhibit (1), Memo - 2007 Program Educational/Media Campaign Initiatives On Fireworks Enforcement, Celebrate the 4th of July Safely and Celebrate the 4th of July park flyers. She advised members that the goal of the Safety Division is to distribute the brochures to elementary and middle school students prior to the dismissal of schools for the summer.

In addition, the Safety Division is in discussion with Ms. Molly Barnett from the Milwaukee Public Schools Recreation Division, regarding educating students about the dangers of illegal use of fireworks in the city of Milwaukee.

Alderman Witkowski asked what efforts had been developed to educate adults?

Ms. Dukes commented that information could be distributed at block watch meetings for dissemination in city neighborhoods.

The Safety Division is also seeking support from Clear Channel to establish billboard media throughout the city advising residents that fireworks are illegal in the city of Milwaukee.

Exhibit (2), Notice by the Wilson Park Fourth of July Commission. Ms. Jalowiec informed members that the notice had been distributed to schools advising students, school staff and parents about the illegal use of fireworks and the consequences of such use.

Recommendations:

Recommendations:

- Contact State Representatives, State Senators and the News Media to request their presence in various parks on July 3rd and 4th*
- Contact Milwaukee County Board for approval and collaboration with the Safety Division to place signs in the County Parks*
- Distribution of flyers by the 4th of July Commission at fireworks events at the parks*
- Milwaukee Police Department seek grants for fireworks education*

- Assistance from Clear Channel to utilize billboards throughout the city as a media tool
- Annual revisions of fireworks brochures by the Safety Division

5. Next meeting date: Thursday, May 31, 2007, 1:00 P.M.

Thursday, May 31, 2007, 1:00 P.M.

Meeting Adjourned: 2:49 P.M.

*Diana Morgan
Staff Assistant*



City of Milwaukee
Meeting Agenda
FIREWORKS TASK FORCE

200 E. Wells Street
Milwaukee, Wisconsin
53202

ALD. JOE DAVIS, SR., CO-CHAIR
ALD. TERRY WITKOWSKI, CO-CHAIR

**Deborah A. Bent, Carol Bruss, Donald G. Doro, Edward Ehrlich, Melvia Ford,
Kristine Hinrichs, Joanne Jalowiec, William Rahming Sr., Sandy Schmidt, Captain
Anthony T. Smith**

**Staff Assistant Diana Morgan; Phone: (414)-286-2231; Fax: (414) 286-3456, E-mail:
dmorga@milwaukee.gov. File Specialist, Charlotte Rodriguez, E-mail:
crodri@milwaukee.gov**

Thursday, May 31, 2007

1:00 PM

Room 301-B, City Hall

1. Roll Call
2. Approval of the minutes of the May 9, 2007 meeting
3. Review of reports related to the sale and prohibited use of fireworks
4. Approval of recommendations
- 5.

Members of the Common Council and its standing committees who are not members of this committee may attend this meeting to participate or to gather information. Notice is given that this meeting may constitute a meeting of the Common Council or any of its standing committees, although they will not take any formal action at this meeting.

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City of Milwaukee
Meeting Minutes
FIREWORKS TASK FORCE

200 E. Wells Street
Milwaukee, Wisconsin
53202

ALD. JOE DAVIS, SR., CO-CHAIR
ALD. TERRY WITKOWSKI, CO-CHAIR

Deborah A. Bent, Carol Bruss, Donald G. Doro, Edward Ehrlich, Melvia Ford, Kristine Hinrichs, Joanne Jalowiec, William Rahming Sr., Sandy Schmidt, Captain Anthony T. Smith

Staff Assistant Diana Morgan; Phone: (414)-286-2231; Fax: (414) 286-3456, E-mail: dmorga@milwaukee.gov. File Specialist, Charlotte Rodriguez, E-mail: crodri@milwaukee.gov

Thursday, May 31, 2007

1:00 PM

Room 301-B, City Hall

Meeting Convened: 1:07 P.M.

1. Roll Call

Present: Davis, Bruss, Doro, Ehrlich, Hinrichs, Jalowiec, Rahming Sr., Smith, Bent, Witkowski and Schmidt.

Also Present: Leslie Silletti and Robert Wagler.

Excused: Ford.

Ms. Bent arrived at 1:19 P.M.

Ms. Schmidt and Alderman Witkowski arrived at 1:25 P.M.

2. Approval of the minutes of the May 9, 2007 meeting

Motion by Ms. Bruss to approve the minutes of the May 9, 2007 meeting of the Fireworks Task Force.

Seconded by Deputy Chief Doro.

Prevailed. 8-0.

3. Review of reports related to the sale and prohibited use of fireworks

Deputy Inspector Doro provided an overview of the Model Fireworks Law Report.

According to Deputy Inspector Doro the report was created by the National Fire Association in response to concerns around the country about the use of consumer fireworks.

He informed the committee that the model report indicates that there is no positive impact or reason for individuals to possess consumer fireworks for personal use due to safety and quality of life concerns.

In addition, the report offers flexible guidelines for the use of professional licensed fireworks displays, while maintaining limits for the use of fireworks for personal use.

Alderman Davis advised members that he was going to be interviewed by Mr. Sater

regarding the task force's goals and objectives of making residents aware of the dangers associated with the discharge of fireworks; as well as the fact that the purchase, possession and discharge of fireworks are illegal in the city of Milwaukee.

Ms. Schmidt informed members that she had contacted Terry Sater, Channel 12 news about the media blitz goals of the fireworks task force and that Channel 12 expressed interest in airing a media blitz regarding fireworks in the city of Milwaukee. The date for the media blitz had not been determined.

Task force members reviewed and discussed the memo (Working Document: Fireworks Task Force: Summary Recommendations), provided my Ms. Silletti at the May 9th meeting for the purpose of approving recommendations for the report and final recommendations of the Fireworks Task Force.

Alderman Witkowski provided members with Exhibit 1 (Correspondence/Memorandum from District Attorney John Chisholm regarding Wis., Stats. 167.10),

According to Mr. Ehrlich the correspondence included an inter-office memo from Assistant District Attorney Karen Loebel expressing her legal opinion concerning the use of the injunction scheme as a way of preventing the use of fireworks and a way of prosecuting individuals for the use of fireworks under state law.

Mr. Ehrlich continued that by referencing Wis., Stats., 167.10(8) indicating "A city village or town may petition the circuit court for an order enjoining violations of subs 2, 3 and 6".

He continued that this statute do not offer clear guidance as to what would be required for the city to set forth to insure issuance of a injunction by the circuit court. The greatest problem with attempting to use an injunction as a law enforcement tool is that you must name a particular individual. Essentially you cannot prosecute anyone unless that has received notice that they are enjoined from committing some a particular act.

Mr. Ehrlich commented that the current state statute does not provide authority with penalties for violations that can be prosecuted by the District Attorney as a crime, which means the task force has very little recourse.

Alderman Witkowski to contact the Department of Neighborhood Services regarding the inspection of sights where fireworks are displayed.

4. Approval of recommendations

Members reviewed the Working Document: Fireworks Task Force: Summary of Recommendations memo provide by Ms. Silletti dated May 4, 2007 for the purpose of approving the draft recommendations to be included in the final report and recommendations of the Fireworks Task Force.

Members made changes and comments relating to the following recommendations:

List as (*) #1 recommendation: *Lobbying the state legislature to create fireworks laws that are workable and enforceable as wells as changes to the Wis., Stats., 167, to make it perfectly clear that fireworks are illegal in the city of Milwaukee and that only professional fireworks display companies are authorized to purchase and discharge fireworks in the city of Milwaukee.

List as (^) #2 recommendation: ^Establish a resolution giving directive to departments to carryout recommendations.

Education/Public Announcements (Oversight - Safety Division)

1. *Establish relationships with schools: distribute fliers, ask teachers to discuss with classes, give presentations and encourage fireworks viewing at designate parks.*
 - *Expanded this recommendation to included DVDs' that would include an advisory message from the Mayor, Common Council, Fire Department, Police Department, Sheriff's Department or the Safety Division identifying the consequences associated with the sale, possession and discharge of fireworks.*
 - *Distribution of DVDs' to PTO's or Home Associations in schools as a tool to educate parents about the public safety issues associated with fireworks.*
3. *Media blitz during peak periods. (Oversight - Annie Schwartz, Bill Arnold, Channel 25, and Milwaukee County).*
 - *Clear Channel to assist with fireworks media blitzes throughout the city.*
 - *Press conference to include information to homeowners about firework related damage covered under their homeowners insurance.*
4. *More signs at parks.*
 - *4th of July Commission contact companies who manufacture campaign signs or printing companies for donations.*
 - *4th of July Commission take a more proactive approach to initiate a campaign seeking assistance from companies to cover sign costs; use of creative efforts to raise funds for the campaign which would include clarity of how businesses donate to efforts?*
 - *Donation of signage at both the Summerfest grounds and Miller Park placed in strategic locations.*
5. *Get hospitals and non-profit organizations to sponsor billboards, and focus on the health issue, especially during peak periods.*
 - *Contact Mark Lucius, Director of Corporate Information, Northwestern Mutual; the organization works to address medical issues affecting youth.*
7. *Ask neighborhood organizations or Citywide Block watch Council to do media blitzes in their literature or handed out by block watch captains. (Oversight - Citywide Block watch Council).*
 - *Fireworks safety message in Aldermanic Newsletters.*
 - *Safety Division to contact World Festival Inc. about distributing flyers at their lake front festivals.*
 - *Distribution of brochures by Safety Division to block watch captains for neighborhood distribution.*
 - *Goal of complete distribution of pre-printed flyers to residents by the Safety Division.*

-Revisit 2007 initiatives for 2008 improvements.

-Continued implementation and collaboration by Safety Commission and Safety Division on task force's recommendations.

-4th of July Commission to evaluate applications for fireworks based upon previous year outcomes.

-Clarification and identification of the department(s) who would assume the responsibility for follow-up of task force recommendations.

Establishing Relationships (Oversight - Intergovernmental Relations Department/DOA)

Remove Bullet #1. Establish relationships with schools, Big Brothers Big Sisters, Boys & Girls Clubs, YMCA's, etc. to educate kids (from education section).

Multi-county Cooperation (Oversight - Intergovernmental Relations/DOA)

(Add) Establish relationships with surrounding communities.

Using Legal Channels

-1. Seek an injunction from the state and create criminal liability for a 7-day period around the 4th of July. Demonstrate needs based upon the number of calls for service received by the police department, fire data from the MFD, fiscal impact and injury data, and determine the overall cost to the city. This information should be utilized by the community and violations treated as criminal violations, rather than municipal violations.

-2. Pass an ordinance that requires that fireworks injuries be tracked. (Oversight - Fire Department). Fire Department to phase in processes to track data for fireworks injuries.

-Contact Ronald Pirrallo, Milwaukee County Paramedic Program, 9200 W. Wisconsin Ave., regarding strategies for tracking fireworks related injuries.

-Collaboration between medical facilities to establish a system to track data for fireworks related injuries.

-Statutory requirement that hospitals report injuries caused by fireworks to the Milwaukee Health Department.

-Remove Bullet #5. Is it possible to require each jurisdiction to label fireworks products for identifying the distribution point of the products.

-Remove Bullet #6. Inquiry about whether the city can sue other jurisdictions for violation of state law if the sale of fireworks affects the city of Milwaukee. Assistant City Attorney Ehrlich stated the city could not sue jurisdictions to make them enforce.

-Remove Bullet #7. Suggest changing state law so that persons whose identification proves they live within the city of Milwaukee may not purchase fireworks anywhere. Assistant City Attorney Ehrlich said this would probably not be possible because of equal protection laws.

-Remove Bullet #8. Requiring that date of birth and telephone number be included on permits.

- Mr. Ehrlich to draft a summary of changes to be include in the final report and recommendations that would identify stricter enforceable fireworks penalties to state law.

-Amend s. 105-47 of the Milwaukee Code of Ordinances relating fireworks forfeiture, to include language that hold the parents of minors who cause fireworks related damages to be fined and to increase fine amounts. (Referencing Wis., Stats., 167.10 (9)(c).

City Departments
Safety Division

4. Development of informational brochures explaining the hazards of fireworks, and seek donations to offset costs for flyers, brochures and signs.

5. Safety Division to provide flyers to the 4th of July Commission for distribution at fireworks events.

6. Include matters related to fireworks for discussion at Safety Commission meetings.

-Receive recommendations from the new Fire Chief relative deployment strategies in the instance of emergencies.

-Review of permit process by Fire Department.

Meeting Adjourned: 3:13 P.M.

Diana Morgan
Staff Assistant



City of Milwaukee

200 E. Wells Street
Milwaukee, Wisconsin
53202

Meeting Agenda

FIREWORKS TASK FORCE

ALD. JOE DAVIS, SR., CO-CHAIR

ALD. TERRY WITKOWSKI, CO-CHAIR

*Deborah A. Bent, Carol Bruss, Donald G. Doro, Edward Ehrlich, Melvia Ford,
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croдри@milwaukee.gov*

Wednesday, June 27, 2007

1:00 PM

City Hall, Room 301-A

1. Roll Call
2. Approval of the minutes of the May 31, 2007 meeting
3. Review of final report and recommendations
4. Recognition of task force members for their services

Members of the Common Council and its standing committees who are not members of this committee may attend this meeting to participate or to gather information. Notice is given that this meeting may constitute a meeting of the Common Council or any of its standing committees, although they will not take any formal action at this meeting.

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APPENDIX C

Section 167.10 of the Wisconsin State Statutes

CHAPTER 167

SAFEGUARDS OF PERSONS AND PROPERTY

- 167.07 Manufacture, storage and distribution of matches.
- 167.10 Regulation of fireworks.
- 167.11 Hazardous substances.
- 167.12 Safety appliances.
- 167.13 Operation.
- 167.14 Sale regulated.
- 167.151 Unlawful operation of corn shredders.
- 167.18 Threshing machine joints to be covered.
- 167.19 Farm machinery storage.

- 167.20 Stairway guards.
- 167.22 Cigars not to be manufactured in basements.
- 167.25 Refrigerators and iceboxes.
- 167.26 Leaving unguarded ice holes.
- 167.27 Capping and filling wells or similar structures.
- 167.30 Use of firearms, etc., near park, etc.
- 167.31 Safe use and transportation of firearms and bows.
- 167.32 Safety at sporting events.

167.07 Manufacture, storage and distribution of matches. (1) No person may manufacture, store, offer for sale, sell, or otherwise dispose of or distribute, any of the following:

- (a) White phosphorus, single-dipped, strike-anywhere matches of the type popularly known as "parlor matches".
- (b) White phosphorus, double-dipped, strike-anywhere matches, or other type of double-dipped matches, unless the bulb or first dip of such match is composed of a so-called safety or inert composition, nonignitable on an abrasive surface.
- (c) Matches which, when packed in a carton of 500 approximate capacity and placed in an oven maintained at a constant temperature of 200 degrees Fahrenheit, will ignite in 8 hours.
- (d) Blazer, or so-called wind matches, whether of the so-called safety or strike-anywhere type.

(2) (a) No person may do any of the following:

- 1. Offer for sale, sell or otherwise dispose of or distribute any matches, unless the package or container in which such matches are packed bears plainly marked on the outside thereof the name of the manufacturer and the brand or trademark under which such matches are sold, disposed of or distributed.
- 2. Open more than one case of each brand of matches of any type or manufacture at any one time in a retail store where matches are sold or otherwise disposed of.
- 3. Keep loose boxes or paper-wrapped packages of matches on shelves or stored in a retail store at a height exceeding 5 feet from the floor.

(b) All matches stored in warehouses, except manufacturers' warehouses at the place of manufacture, that contain automatic sprinkler equipment shall be subject to each of the following conditions:

- 1. The matches shall be kept only in properly secured cases.
- 2. The matches shall not be piled to a height exceeding 10 feet from the floor.
- 3. The matches shall not be stored within a horizontal distance of 10 feet from any boiler, furnace, stove or other similar heating apparatus.
- 4. The matches shall not be within a horizontal distance of 25 feet from any explosive material kept or stored on the same floor.

(c) All matches shall be packed in boxes or suitable packages, containing not more than 700 matches in any one box or package. If more than 300 matches are packed in any one box or package, the matches shall be arranged in 2 nearly equal portions, with the heads of the matches in the 2 portions placed in opposite directions. All boxes containing 350 or more matches shall have placed over the matches a center holding or protecting strip, made of chipboard, not less than 1.25 inches wide and the strip shall be flanged down to hold the matches in position when the box is nested into the shuck or withdrawn from it.

(3) All match boxes or packages shall be packed in strong shipping containers or cases; maximum number of match boxes

or packages contained in any one shipping container or case, shall not exceed the following number:

Number of Boxes	Nominal Number of Matches per Box
One-half gross	700
One gross	500
Two gross	400
Three gross	300
Five gross	200
Twelve gross	100
Twenty gross	over fifty and under 100
Twenty-five gross	under 50

(4) No shipping container or case constructed of fiber board, corrugated fiber board, or wood, nailed or wirebound, shall exceed a weight, including its contents, of 75 pounds; and no lock-cornered wooden case containing matches shall have a weight, including its contents, exceeding 85 pounds; nor shall any other article or commodity be packed with matches in any such container or case; and all such containers and cases in which matches are packed shall have plainly marked on the outside of the container or case the words "Strike-Anywhere Matches" or "Strike-on-the-Box Matches".

(5) Any person, association or corporation violating this section shall be fined for the first offense not less than \$5 nor more than \$25, and for each subsequent violation not less than \$25.

History: 1997 a. 254.

167.10 Regulation of fireworks. (1) DEFINITION. In this section, "fireworks" means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:

- (a) Fuel or a lubricant.
- (b) A firearm cartridge or shotgun shell.
- (c) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
- (d) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
- (e) A cap containing not more than one-quarter grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
- (f) A toy snake which contains no mercury.
- (g) A model rocket engine.
- (h) Tobacco and a tobacco product.
- (i) A sparkler on a wire or wood stick not exceeding 36 inches in length that is designed to produce audible or visible effects or to produce audible and visible effects.

167.10 SAFEGUARDS

(j) A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture.

(k) A fuseless device that is designed to produce audible or visible effects or audible and visible effects, and that contains less than one-quarter grain of explosive mixture.

(L) A device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or visible effects, or audible and visible effects.

(m) A cylindrical fountain that consists of one or more tubes and that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.

(n) A cone fountain that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.

(2) SALE. No person may sell or possess with intent to sell fireworks, except:

- (a) To a person holding a permit under sub. (3) (c);
- (b) To a city, village or town; or
- (c) For a purpose specified under sub. (3) (b) 2. to 6.

(3) USE. (a) No person may possess or use fireworks without a user's permit from the mayor of the city, president of the village or chairperson of the town in which the possession or use is to occur or from an official or employee of that municipality designated by the mayor, president or chairperson. No person may use fireworks or a device listed under sub. (1) (e) to (g) or (i) to (n) while attending a fireworks display for which a permit has been issued to a person listed under par. (c) 1. to 5. or under par. (c) 6. if the display is open to the general public.

(b) Paragraph (a) does not apply to:

1. The city, village or town, but municipal fire and law enforcement officials shall be notified of the proposed use of fireworks at least 2 days in advance.

2. The possession or use of explosives in accordance with rules or general orders of the department of commerce.

3. The disposal of hazardous substances in accordance with rules adopted by the department of natural resources.

4. The possession or use of explosive or combustible materials in any manufacturing process.

5. The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.

6. A possessor or manufacturer of explosives in possession of a license or permit under 18 USC 841 to 848 if the possession of the fireworks is authorized under the license or permit.

7. Except as provided in par. (bm), the possession of fireworks in any city, town or village while transporting the fireworks to a city, town or village where the possession of the fireworks is authorized by permit or ordinance.

(bm) Paragraph (a) applies to a person transporting fireworks under par. (b) 7. if, in the course of transporting the fireworks through a city, town or village, the person remains in that city, town or village for a period of at least 12 hours.

(c) A permit under this subsection may be issued only to the following:

1. A public authority.
2. A fair association.
3. An amusement park.
4. A park board.
5. A civic organization.
6. A group of resident or nonresident individuals.
7. An agricultural producer for the protection of crops from predatory birds or animals.

(d) A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.

(e) The person issuing a permit under this subsection may require an indemnity bond with good and sufficient sureties or policy of liability insurance for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit. The bond or policy, if required, shall be taken in the name of the city, village or town wherein the fireworks are to be used, and any person injured thereby may bring an action on the bond or policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurer to all persons shall not exceed the amount of the bond or policy. The bond or policy, if required, together with a copy of the permit shall be filed in the office of the clerk of the city, village or town.

(f) A permit under this subsection shall specify all of the following:

1. The name and address of the permit holder.
2. The date on and after which fireworks may be purchased.
3. The kind and quantity of fireworks which may be purchased.
4. The date and location of permitted use.
5. Other special conditions prescribed by ordinance.

(g) A copy of a permit under this subsection shall be given to the municipal fire or law enforcement official at least 2 days before the date of authorized use.

(h) A permit under this subsection may not be issued to a minor.

(4) OUT-OF-STATE AND IN-STATE SHIPPING. This section does not prohibit a resident wholesaler or jobber from selling fireworks to a person outside of this state or to a person or group granted a permit under sub. (3) (c) 1. to 7. A resident wholesaler or jobber that ships the fireworks sold under this subsection shall package and ship the fireworks in accordance with applicable state and federal law by, as defined in s. 194.01 (1), (2) and (11), common motor carrier, contract motor carrier or private motor carrier.

(5) LOCAL REGULATION. (a) Subject to pars. (b) to (e), a city, village, town or county may enact an ordinance for any of the following:

1. Defining "fireworks" to include all items included under sub. (1) (intro.) and anything under sub. (1) (e), (f), (i), (j), (k), (L), (m) and (n).

2. Prohibiting the sale, possession or use, as defined by ordinance, of fireworks.

3. Regulating the sale, possession or use, as defined by ordinance, of fireworks.

(b) An ordinance under par. (a) may not be less restrictive in its coverage, prohibition or regulation than this section but may be more restrictive than this section.

(d) A county ordinance enacted under par. (a) does not apply and may not be enforced within any city, village or town that has enacted or enacts an ordinance under par. (a).

(e) Notwithstanding par. (a) or par. (b), no city, village, town or county may enact an ordinance that prohibits the possession of fireworks in that city, town, village or county while transporting the fireworks to a city, town, village or county where the possession of the fireworks is authorized by permit or ordinance.

(6) STORAGE AND HANDLING. (a) No wholesaler, dealer or jobber may store or handle fireworks in premises unless the premises are equipped with fire extinguishers approved by the fire official of the municipality where the premises are located.

(b) No person may smoke where fireworks are stored or handled.

(c) A person who stores or handles fireworks shall notify the fire official of the municipality in which the fireworks are stored or handled of the location of the fireworks.

(d) No wholesaler, dealer or jobber may store fireworks within 50 feet of a dwelling.

(e) No person may store fireworks within 50 feet of a public assemblage or place where gasoline or volatile liquid is dispensed in quantities exceeding one gallon.

(6m) LICENSING AND INSPECTING MANUFACTURERS. (a) No person may manufacture in this state fireworks or a device listed under sub. (1) (e), (f) or (i) to (n) without a fireworks manufacturing license issued by the department of commerce under par. (d).

(b) No person may manufacture in this state fireworks or a device listed under sub. (1) (e), (f) or (i) to (n) unless the person complies with the rules of the department of commerce promulgated under par. (e).

(c) Any person who manufactures in this state fireworks or a device listed under sub. (1) (e), (f) or (i) to (n) shall provide the department of commerce with a copy of each federal license issued under 18 USC 843 to that person.

(d) The department of commerce shall issue a license to manufacture fireworks or devices listed under sub. (1) (e), (f) or (i) to (n) to a person who complies with the rules of the department promulgated under par. (e). The department may not issue a license to a person who does not comply with the rules promulgated under par. (e). The department may revoke a license under this subsection for the refusal to permit an inspection at reasonable times by the department or for a continuing violation of the rules promulgated under par. (e).

(e) The department of commerce shall promulgate rules to establish safety standards for the manufacture in this state of fireworks and devices listed under sub. (1) (e), (f) or (i) to (n).

(f) The department of commerce may inspect at reasonable times the premises on which each person licensed under this subsection manufactures fireworks or devices listed under sub. (1) (e), (f) or (i) to (n).

(7) PARENTAL LIABILITY. A parent, foster parent, treatment foster parent, family-operated group home parent or legal guardian of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of the fireworks.

(7m) MUNICIPAL LIABILITY. No city, village, or town, or committee, official, or employee of a city, village, or town, is civilly liable for damage to any person or property caused by fireworks for the sole reason that the city, village, or town issued a permit in accordance with the requirements of sub. (3) and any applicable requirements authorized under sub. (5), that authorized the purchase, possession, or use of the fireworks.

(8) ENFORCEMENT. (a) A city, village or town may petition the circuit court for an order enjoining violations of sub. (2), (3) or (6) or an ordinance adopted under sub. (5).

(b) Fireworks stored, handled, sold, possessed or used by a person who violates this section, an ordinance adopted under sub. (5) or a court order under par. (a) may be seized and held as evidence of the violation. Except as provided in s. 968.20 (4), only the fireworks that are the subject of a violation of this section, an ordinance adopted under sub. (5) or a court order under par. (a) may be destroyed after conviction for a violation. Except as provided in s. 968.20 (4), fireworks that are seized as evidence of a violation for which no conviction results shall be returned to the owner in the same condition as they were when seized to the extent practicable.

(9) PENALTIES. (a) A person who violates a court order under sub. (8) (a) shall be fined not more than \$10,000 or imprisoned not more than 9 months or both.

(b) A person who violates sub. (2), (3) or (6) or an ordinance adopted under sub. (5) shall forfeit not more than \$1,000.

(c) A parent or legal guardian of a minor who consents to the use of fireworks by the minor shall forfeit not more than \$1,000.

(g) Whoever violates sub. (6m) (a), (b) or (c) or a rule promulgated under sub. (6m) (e) is guilty of a Class G felony.

History: 1977 c. 260; 1983 a. 446, 538; 1985 a. 135; 1987 a. 377; 1987 a. 403 s. 256; 1989 a. 31; 1989 a. 56 s. 258; 1993 a. 208, 446, 491; 1995 a. 27 ss. 4464 to 4469 and 9116 (5); 1995 a. 330; 1997 a. 3, 35, 283; 2001 a. 109; 2003 a. 298.

NOTE: 2003 Wis. Act 298, which created sub. (7m), contains explanatory notes.

Cross Reference: See also ss. Comm 5.21 and 9.01, Wis. adm. code.

Sub. (4) may be violated in 3 ways: 1) the improper delivery of fireworks legitimately sold at wholesale; 2) the sale of fireworks at retail; or 3) both. Wholesale under sub. (4) is defined as the sale of goods in quantity for resale. *State v. Seigel*, 163 Wis. 2d 871, 472 N.W.2d 584 (Ct. App. 1991).

A fireworks purchaser must have a federal license, hold a valid permit under this section or be a municipality. There is no exception from this requirement because the seller holds a federal license. *City of Wisconsin Dells v. Dells Fireworks, Inc.* 197 Wis. 2d 1, 539 N.W.2d 916 (Ct. App. 1995).

Fireworks permits issued to groups do not authorize sales of fireworks to group members for their individual use. *City of Wisconsin Dells v. Dells Fireworks, Inc.* 197 Wis. 2d 1, 539 N.W.2d 916 (Ct. App. 1995), 94-1999.

Sub. (4) allows sales to purchasers physically outside of the state's boundaries but does not permit sales within the state's boundaries to nonresidents. Sub. (4) permits the purchase of restricted fireworks within the state only by purchasers with a permit or who fit within a specified exception under sub. (2). *State v. Victory Fireworks, Inc.* 230 Wis. 2d 721, 602 N.W.2d 128 (Ct. App. 1999), 99-0243.

167.11 Hazardous substances. (1) No person shall sell, offer for sale or otherwise distribute any package of a substance which when mixed with organic matter will cause spontaneous combustion under reasonably anticipated conditions of use or handling unless the package bears a label clearly warning that the substance will create a fire hazard when so mixed.

(2) The department of commerce shall, by rule, set forth the nature of such warning and shall enforce this section.

(3) Any person violating this section may be fined not less than \$25 nor more than \$100 for each offense.

History: 1995 a. 27, ss. 4470 and 9116 (5).

167.12 Safety appliances. Any person, firm, or corporation who shall sell, offer or expose for sale, or use any machine to be operated by steam, or other power, for the purpose of husking or shredding corn or corn stalks shall provide such machine with safety or automatic feeding devices for the protection from accident by the snapping rollers, husking rollers, and shredding knives of any person using or operating such machine in the discharge of their duty, and such machine shall be so guarded that the person feeding said machine shall be compelled to stand at a safe distance from the snapping rollers; and any person, firm, or corporation operating such machine shall maintain thereon such safety or automatic feeding devices. The duty to equip such machine with safety or automatic feeding devices, as well as the duty to maintain the same, shall be absolute; and the exercise of ordinary care on the part of such person, firm, or corporation operating such machine shall not be deemed a compliance with such duty; and in case any person in the employ of such person, firm, or corporation operating such machine continues in such employment when such device has not been installed and maintained, as above provided, such employee shall not be deemed guilty of a want of ordinary care, on account of so continuing in such employment.

167.13 Operation. No person, firm or corporation shall use, operate or permit to be used or operated any such machine purchased prior to June 12, 1909, unless during all the time such machine shall be used and operated it shall be in charge of a competent person whose sole duty shall be to oversee and attend to the operation and use of the same; nor use, operate or permit to be used or operated any such machine whatever while the safety devices or guards are detached.

167.14 Sale regulated. No such machine shall be sold or offered or exposed for sale unless the said machine shall have plainly marked upon it the name and location of the person, firm or corporation manufacturing the same.

167.151 Unlawful operation of corn shredders. Any person, firm or corporation who shall violate any of the provisions

APPENDIX D

Section 105-47 Milwaukee Code of Ordinances

**CHAPTER 105
PUBLIC SAFETY**

	TABLE	105-59.5	Police Escorts
		105-60	Abandoned Iceboxes or Refrigerators
105-1	Riots; Unlawful Assemblies	105-64	Vehicle Parking on Private Property
105-1.5	Hiring of Professional Strikebreakers Prohibited	105-65	Control of Abandoned Motor Vehicles and Trailers
105-2	Assault and Battery	105-66	On-Street Motor Vehicle Repair
105-8	Veteran Grave Markers	105-69	Harmful Substances
105-16	Icicles on Buildings	105-70	Toxic Glues
105-19	Roller Skates, In-line Roller Skates and Skateboards Restricted	105-71	Vision Triangles
105-20.5	Baseball Regulations, etc., in Certain Areas	105-73	Municipal Silent Alarm Service
105-20.52	Penalty, General	105-75	Private Alarm Systems and Regulations
105-21	Basketball, Baseball and Softball: Regulations	105-77	Misuse of Emergency Telephone Numbers
105-25	Railroad Quiet Zone	105-79	Legal Occupant Lists for Residential Rental Properties
105-34	Carrying Dangerous Weapons	105-81	Ultimate or Extreme Fighting Events Prohibited
105-34.4	Use of Fire Bombs	105-91	Retail Establishment Security Measures
105-35	Discharge of Firearms	105-122	Seized Firearms or Ammunition, etc.
105-36	Archery Ranges (Bow and Arrow)	105-123	Disposition of Property Found on City Streets
105-39	Regulations for Shooting Galleries (Firearms)	105-124	Police May Enter Buildings to Make Arrests, Right of Entry
105-40	Application for License	105-125	Power of Arrest
105-41	Specifications	105-126	General Duties of Policemen
105-42	Penalty	105-127	When to Arrest
105-43	Sale of Dangerous Weapons	105-128	Police to Report Defective Sidewalks, etc.
105-43.2	Waiting Period Required for Transfer of Handguns	105-133	Warrant for Assault Upon Officer
105-45	Sale, Possession and Use of Laser Pointers	105-137	Assistance to Officers By Citizens
105-46	Sale of Motorized Scooters	105-138	Resisting or Obstructing Officer
105-47	Fireworks		
105-48	Smoking in City Buildings		
105-49	Smoking in Theaters		
105-50	Smoking, Drinking and Music Playing on Buses		
105-51	Hate Literature		
105-53	Entrance to Government Pier		
105-55	Soliciting of Magazines on Public Streets		
105-55.5	Special Event Permits		
105-56	Sales on Public Premises		
105-57	Sales on Public Right of Way (Special Events)		

105-1. Riots; Unlawful Assemblies.
1. PURPOSE AND FINDINGS. This section is enacted to protect the health, safety and welfare of the public, to preserve order and to prevent harm or injury to persons and property. The city finds that police officers have a duty to suppress unlawful assemblies within their jurisdiction. For that reason they may order all persons who are part of an assembly to disperse. It is further found that

105-47 Public Safety

engine or electric motor that is capable of propelling the device with or without human propulsion. For the purposes of this section, an electric personal assistive mobility device, a moped, a motor bicycle or a motorcycle, as defined under s. 340.01, Wis. Stats., is not a motorized scooter.

2. POSTING OF NOTICES TO BUYERS REQUIRED. Every retail commercial establishment selling motorized scooters shall have posted on the premises in a prominent and conspicuous manner at or near the display of such item a placard stating as follows: "IMPORTANT NOTICE TO POTENTIAL MOTORIZED SCOOTER BUYERS: The operation of motorized scooters upon public roadways, bicycle ways and sidewalks is against the law. Motorized scooters may only be operated with permission on private property, and on private roads and driveways."

3. SIGNED STATEMENT REQUIRED. Every retail commercial establishment selling motorized scooters shall obtain from every person buying a motorized scooter a signed statement on forms provided by the city clerk stating that the buyer is aware that motorized scooters cannot be operated within the city on public roadways, bicycle ways and sidewalks, as set forth in chs. 341 and 346, Wis. Stats., as amended. The seller must retain the statement for a period of not less than one year from the date of sale.

4. PENALTY. Any person convicted of violating any provision of this section, shall forfeit not less than \$500 nor more than \$5,000 per violation, or upon default of payment be imprisoned in the house of correction or the county jail for not more than 90 days or until such forfeiture costs are paid.

105-47. Fireworks. 1. SALES, DISCHARGE AND USE PROHIBITED. No person may sell, expose or offer for sale, use, keep or discharge, or explode in this city any firecracker, bottle rocket, cherry bomb, colored smoke bomb, toy cap, blank cartridge, toy pistol or cannon in which explosives are used, contrivances using explosive caps or cartridges, sparklers, display wheels, the type of balloon which requires fire underneath to propel it, torpedoes, sky rockets, Roman candles, aerial salutes, American or

Chinese bombs or other fireworks of like construction, or any other fireworks containing any explosives of like construction, or any fireworks containing any explosives of flammable compound, or any tablets or other device commonly used and sold as fireworks containing nitrates, chlorates, oxylates, sulphides of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorous, or any compound containing any of the same or other explosives.

2. STORAGE AND WHOLESALING. This section does not prohibit any resident, wholesaler, dealer or jobber firm from selling fireworks at wholesale, provided they are shipped or delivered directly outside the city limits.

3. PENALTY. Any person violating this section shall upon conviction forfeit not less than \$100 nor more than \$500, and upon default thereof shall be imprisoned in the county jail or house of correction for a period not to exceed 10 days, or until the forfeiture and costs are paid.

105-48. Smoking in City Buildings. 1. DEFINITION. In this section, "city building" means any building or portion thereof owned or leased by the city, including any enclosed walkway connecting such structures.

2. SMOKING PROHIBITED. No person may carry a lighted cigar, cigarette, pipe or any other lighted smoking equipment in any enclosed, indoor area of a city building, including any hallway, waiting area, rest room, cafeteria, meeting room, lobby or reception area or private, enclosed office of any employe or elected official or in any city-owned or leased vehicle.

3. POSTING OF SIGNS. Persons in charge of city buildings or areas where smoking is prohibited shall post or cause to be posted in a clear and conspicuous manner in all entrances and areas of city buildings "no smoking" signs or international "no smoking" symbols consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it.

4. ENFORCEMENT. The police department shall enforce this section.

APPENDIX E

Sample Fireworks Permit



**\$4.00 POSSESSOR'S PERMIT
To Purchase & Possess
(D.O.T.) Class C Fireworks**

Permit # _____

The undersigned Town Chairman or other official or employee so designated by the Town of Raymond, County of Racine, Wisconsin, hereby authorizes the following persons, organizations, non-profit organizations or individuals to purchase (D.O.T.) Class C fireworks.

This permit is valid to purchase (D.O.T.) Class C fireworks from January 1, 2007 until December 31, 2007 up to the amount of \$200.00 worth of fireworks.

This permit is only valid to legally possess (D.O.T.) Class C fireworks. This permit specifically prohibits the use of the same in the Town of Raymond.

This permit is issued upon the recipient agreeing to defend, identify, and hold harmless the Town of Raymond and Blackjack Fireworks, LLC in any civil action for any accident or injury occasioned during transportation, handling, storage and/or use of any amount of (D.O.T.) Class C fireworks whether the claimant is the user or a third party.

Issued to: _____

Address: _____

City: _____ State: _____ ZIP: _____

Driver's License#: _____

COPY

Authorized by: _____
Town of Raymond designated representative for authorization to possess

Issue Date: _____ Expiration Date: _____

**NO USAGE OF FIREWORKS IN THE TOWN OF RAYMOND
IS PERMITTED BY THIS POSSESSOR'S PERMIT.**

**The fee for this permit goes solely to the Town of Raymond.*

APPENDIX F

Section 47.05 of the Milwaukee County Ordinances

Chapter 47

PARKS AND PARKWAYS*

Subchapter I. In General

- 47.01. Definitions.
- 47.02. Permit for public meetings and assemblies.
- 47.021. Handbill, etc. within any park or parkway.
- 47.022. Noise.
- 47.023. Penalties.
- 47.03. Games and amusements prohibited except in designated areas; permits for exclusive use.
- 47.031. Lincoln Memorial Drive; games, amusements, athletic and fundraising events.
- 47.04. Sales and solicitation for sale prohibited without permit, distribution of advertisements; regulation of.
- 47.05. Use of firearms, fireworks; hunting with bow and arrow and trapping; throwing of missiles; making of fires; deposit or breakage of tin cans, bottles and glassware; prohibitions.
- 47.06. Animals in parks.
- 47.07. Fish, waterfowl; game birds.
- 47.08. Injury to, destruction, or removal of public property.
- 47.081. Use of skateboards prohibited.
- 47.09. Use of parks for aircraft prohibited except with permit.
- 47.10. Use of motor vehicles in parks.
- 47.11. Regulation of bicycle riders.
- 47.12. Horseback riding regulations.
- 47.13. Boating regulations.
- 47.135. Removal of obstructions to navigation.
- 47.14. Bathing and swimming regulations.
- 47.141. Regulation of access to U.S. government pier.
- 47.15. Fortunetelling, gambling, prohibited; bingo.
- 47.16. Disorderly conduct; smoking prohibited.
- 47.17. Possession of alcoholic beverages in park areas.
- 47.19. Location and construction of utility fixtures.
- 47.20. Cutting of parkway curbs for private drives; permit required.
- 47.21. Excavating in park or parkway; permit required; conditions.
- 47.22. Care required in making excavation.

***Editor's note**—The references to the park commission (or parks, recreation and culture commission) in this chapter are obsolete and the responsibilities of the commission have been assigned to the committee on parks, energy and environment and the director of parks, energy and environment.

number of participants involved. Such fees shall be used by the department exclusively for the purpose of cleaning of the adjacent parks and parklands where the event was held.

- (c) In the event that the organizers or sponsors of any such event deviate from the plan submitted in the application or from the route course submitted, without the prior approval of the City of Milwaukee and the county, such organizers or sponsors and such event thereafter shall be denied a permit for any events on Lincoln Memorial Drive for the following calendar year.

(7) *Written notice to the facilities.* The department of parks, recreation and culture shall provide written notice, within a reasonable period of time prior to closing or limitation of access on Lincoln Memorial Drive due to such events, to organizations and facilities that may be affected thereby. Without limitation by reason of enumeration, the following facilities and organizations shall receive such notice: Charter Captains, Milwaukee Yacht Club, McKinley Tennis Club, Milwaukee Community Sailing Center, Great Lakes Sports Fishermen and McKinley Marina.

47.04. Sales and solicitation for sale prohibited without permit, distribution of advertisements; regulation of.

(1) *Sales and solicitation of sales.* No person shall sell, keep or offer for sale any intangible article, merchandise or thing; nor solicit for or pursue any trade, occupation, business or profession, within any park or parkway, without the written permit of the director of parks, recreation and culture or designee, provided that any fee imposed for taking photos of persons, groups of individuals, parties or any events shall not be chargeable or collectible from individuals taking photographic pictures within the county park system, except at the Boerner Botanical Gardens in Whitnall Park and the Domes in Mitchell Park. Notwithstanding this limitation, the director is authorized to levy a charge in certain instances where a reasonable basis exists for issuance of a permit including, primarily, where county personnel or equipment is requested or where the

general public will be refused or denied use of such park or park areas in order to accommodate the photo sessions.

(2) A permit to sell or solicit shall be issued by the director of parks, recreation and culture or designee provided:

- (a) The applicant has filed a written request for a permit under the provisions of section 47.02.
- (b) A permit under the provisions of section 47.02 has been or will be granted.
- (c) The applicant files a written request for a permit showing the time and place of the sale or solicitation and a description of the purpose of the sale and of the items that will be offered for sale, or a description of the purpose of the solicitation, or both if applicable.
- (d) The sale or solicitation shall be concurrent with and related to the event for which a permit under the provisions of section 47.02 has been or will be granted.
- (e) The sale or solicitation is not for commercial gain by a person or entity engaged, directly or indirectly, in rendering services or supplying goods for profit.

(3) Should a permit not be issued hereunder, to a permittee or an applicant for a permit under section 47.02 by the director of parks, recreation and culture or designee, the provisions of section 47.02(3) shall be complied with.

(4) Any person violating any of the provisions of this section shall, for each offense, forfeit a penalty not to exceed one hundred dollars (\$100.00), the cash deposit thereof shall be fifty dollars (\$50.00) and the penalty assessment shall be six dollars (\$6.00), and in default of payment thereof, shall be imprisoned in the county jail or house of correction of the county for a period not to exceed ninety (90) days in the discretion of the court.

47.05. Use of firearms, fireworks; hunting with bow and arrow and trapping; throwing of missiles; making of fires; deposit or breakage of tin cans, bottles and glassware; prohibitions.

(1) *Use of firearms and fireworks; hunting with bow and arrow; trapping.* No person shall carry,

fire or discharge any gun, pistol or firearm, nor any rocket, torpedo or other fireworks of any description, nor shall any person engage in trapping within any park or parkway without a written permit of the department of parks, recreation and culture; nor shall any person hunt with bow and arrow within any park or parkway. The word "gun" shall include airgun.

(2) *Times for the setting off of fireworks displays on county-owned parks and parkways.* No person shall cause or allow the setting off of fireworks on the county-owned parks, or on the parkways, after 12:00 midnight on any Friday or Saturday, or on any day that is, or precedes, a holiday, or unless prior approval is obtained from the county board. No fireworks shall be set off on any other day, after 10:00 p.m., unless prior approval is obtained from the county board.

(3) *Throwing of stones or missiles.* No person shall throw stones or missiles in or into any park or parkway.

(4) *Making of fires.* No person shall make or kindle a fire for any purpose except in places provided therefor, and then subject to such regulations as may be prescribed.

(5) *Deposit of tin cans, bottles and glassware forbidden except in waste container; removal of broken tin cans, bottles or glassware.*

(a) No person shall deposit any tin cans, bottles or other glassware after the same have been used in any place in a park or parkway, except in waste containers provided by the department of parks, recreation and culture, or except in containers carried by such person for the purpose of removing same from such park or parkway.

(b) Any person who breaks a bottle or other glassware in any park or parkway shall immediately pick up the broken pieces and remove same to a park waste container.

47.06. Animals in parks.

(1) *Disturbance of animals on exhibition.* No person shall injure, molest or disturb any animal exhibited in the zoological garden or in any other

area of the park or parkway, nor feed or attempt to feed the same where posted rules prohibit such conduct.

(2) *Animals not allowed in parks; when; exception.* No animal, except those placed in the parks or parkways by the authority of the director of parks, recreation and culture (hereinafter parks director), and excepting horses when saddled or harnessed and in use for riding or pleasure, driving only on roadways or paths duly designated, and except dogs, as regulated by subsection (3) hereof, shall be conducted into or driven within the parks or parkways or be allowed to remain therein.

(3) *Dogs prohibited in certain areas.* No person having the control or care of a dog shall suffer or permit such dog to enter or remain in a public park or parkway unless it be led by a leash of suitable strength not more than six (6) feet in length, and then only within such areas in parks as have been designated by the parks director. Dogs may be off leash in specific areas designated solely as off leash dog exercise areas under all of the following conditions.

- (a) The owner or keeper of the dog must be present;
- (b) The dog must be under the voice control of the owner or keeper at all times;
- (c) The dog must wear a current rabies vaccination tag; and
- (d) Feces must be properly removed and disposed of in designated containers.

Said off leash areas shall be designated by the parks director. The parks director shall cause signs to be posted in areas wherein dogs are not permitted, or permitted off leash.

(4) *Dogs not permitted in zoological gardens.* No dogs, whether on leash or not, shall be permitted at any time in the zoological gardens nor in any other area of the park or parkway where domestic or wild animals are exhibited.

(5) *Impounding of dogs, when.* Dogs found running at large within any park or parkway may be impounded by any peace officer or by any employe of the department of parks, recreation and culture.

APPENDIX G

Assistant City Attorney Memorandum, Recommendations Relating to
Changes in State Law

GRANT F. LANGLEY
City Attorney

LINDA ULISS BURKE
Deputy City Attorney



**CITY OF
MILWAUKEE**
Office of the City Attorney

DAVID J. STANOSZ
KURT A. BEHLING
JAY A. UNORA
EDWARD M. EHRLICH
MEGAN T. CRUMP
Assistant City Attorneys

TO: FIREWORKS TASK FORCE MEMBERS

FROM: EDWARD EHRLICH
Assistant City Attorney

DATE: June 8, 2007

RE: Legal Recommendations for Fireworks Task Force

Unless and until the state legislature shows the political courage required to eradicate the use of illegal fireworks in the State of Wisconsin, there is nothing that municipalities can do to stem the flow of such contraband into their jurisdictions. The state law, as it currently codified as Wis. Stat. § 167.10 is totally unworkable, and needs a complete and total overhaul to provide the relief that citizens desire to be free of dangerous fireworks.

Of primary importance is differentiating between legitimate awe-inspiring fireworks that are traditionally associated with Fourth of July, Summerfest, and the other ethnic festivals that are detonated by licensed trained competent professionals, as opposed to the firecrackers, bottle rockets, and cherry bombs that are the bane of citizen's enjoyment of their parks and other locations around the Fourth of July. Perhaps our task force really should have been named the "firecracker" task force, and not the fireworks task force.

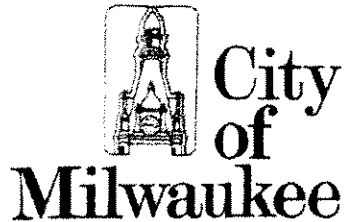
The state statute has two blaring faults that must be remedied. First, it does not specifically distinguish between the types of fireworks shells that would be used by a professional "fireworks" display company, such as Bartolotta, and the common garden-variety firecracker and bottle rocket. Because there is no legitimate purpose or use for a firecracker and the like, the state statute must be changed to prohibit the possession and use of them anywhere in the state, and not provide any scheme for permitting their possession within the state pursuant to a permit granted either by the state or by any local jurisdiction within the state.

The second blaring fault contained within the state statute concerns the utter lack that any mechanism for enforcement of a violation of the statute. The requirement that a municipality must petition the circuit court for an order enjoining a violation of the statute is unworkable. There is no reason why this statute, like any other statute that prohibits unlawful activity, should not have a

penalty section setting forth a schedule of sanctions for violations, as well as the establishment of jurisdiction for enforcement to the district attorney of the county where a violation of law occurs. Without those changes, the "fireworks stands" that operate openly and notoriously within close proximity to our city will continue to flourish and continue the flow of these unwanted firecrackers into Milwaukee.

APPENDIX H

Statements from the Milwaukee Fire Department, Milwaukee Police
Department and the Milwaukee County Sheriff's Office



Fire Department

William Wentlandt
Chief

Mark A. Sain
Assistant Chief

April 16, 2007

Alderman Joe Davis Sr.
Chair
Fireworks Task Force
City Hall, Room 205
200 East Wells St.
Milwaukee, WI 53202

The Milwaukee Fire Department is pleased to have been involved in the Fireworks Task Force and is appreciative of your leadership on this important public safety issue.

In 2006, illegal fireworks were the cause of several fires in the City of Milwaukee. Most of these fires occurred around the July 4th, with many of these fires in occupied buildings. The National Fire Protection Association (NFPA) reports over 2,000 fires caused annually by fireworks.

In spite of strict City of Milwaukee laws that restrict the sale and possession of fireworks, many explosive and incendiary devices are easily and legally obtained in bordering counties for illegal use in Milwaukee.

The Milwaukee Fire Department supports the collaboration of groups including the National Fire Protection Association, International Association of Fire Chiefs, and International Association of Fire Fighters along with other health and safety advocacy organizations that have joined together to form the *Alliance to Stop Consumer Fireworks*.

April 16, 2007

It is the position of the Milwaukee Fire Department that trained professionals under controlled settings should be the only persons authorized to use fireworks with appropriate safeguards in place. Additionally, we support amending Wisconsin law with the goal to prohibit sales of all consumer fireworks. Some states including Arizona, Delaware, Massachusetts, New Jersey, and New York ban all consumer fireworks.

At the very least, steps should be taken to prevent the sales of fireworks to residents of those communities that have more restrictive laws regulating the use of fireworks. I look forward to the summary findings and recommendations of the Fireworks Task Force and remain available to advocate on behalf of the public safety of our community.



WILLIAM WENTLANDT
Chief

WW/hm



Police Department

Nannette H. Hegerty
Chief of Police

May 1, 2007

Fireworks Task Force
c/o Alderman Joe Davis, Sr., Co-Chair
200 East Wells Street – Room 205
Milwaukee, WI 53202

Dear Aldermen Davis, Witkowski and Task Force Members:

Fireworks, along with the potential damage and harm they cause, can be disruptive and present safety concerns for communities. Per Milwaukee City Ordinance 105-47, no person may sell, expose or offer for sale, use, keep or discharge, or explode in this city any type of firework device. Therefore, it is the policy of the Milwaukee Police Department to enforce this ordinance whenever possible and confiscate any and all firework products the Milwaukee Police Department may come in contact with.

Realizing that the height of the firework season is at a time when calls for service are in great demand, the Milwaukee Police Department will do all it can to address fireworks complaints for the safety of all citizens. Furthermore, as we approach the summer season, the department will again do a media campaign to inform citizens of the violations surrounding fireworks and the consequences of being caught in violation of the ordinance, as well as, informing citizens of the potential hazard and harm fireworks present.

I appreciate your efforts to heighten community awareness regarding the dangers and disruptions associated with fireworks and their negative impact on public safety and peaceful neighborhoods.

Sincerely,



NANNETTE H. HEGERTY
CHIEF OF POLICE

c: Alderman Terry Witkowski, Co-Chair
Public Relations Manager Anne E. Schwartz



County of Milwaukee
Office of the Sheriff

David A. Clarke Jr.
Sheriff

May 10, 2007

Fireworks Task Force
C/O The Honorable Joe Davis, Sr., Alderman
C/O The Honorable Terry Witkowski, Alderman
200 East Wells Street, Room 205
Milwaukee, WI 53202

Dear Aldermen Davis and Witkowski:

In response to your request for additional information regarding the Milwaukee County Sheriff's Office's position on fireworks enforcement, we remit the following for your committee's review:

Milwaukee County ordinance 47.05. states , in part:

Use of firearms, fireworks; hunting with bow and arrow and trapping; throwing of missiles; making of fires; deposit or breakage of tin cans, bottles and glassware; prohibitions.

(1) *Use of firearms and fireworks; hunting with bow and arrow; trapping.* No person shall carry, fire or discharge any gun, pistol or firearm, nor any rocket, torpedo or other fireworks of any description, nor shall any person engage in trapping within any park or parkway without a written permit of the department of parks, recreation and culture; nor shall any person hunt with bow and arrow within any park or parkway. No person shall carry, fire or discharge any gun, pistol or firearm, nor any rocket, torpedo or other fireworks of any description upon any premises owned or leased by Milwaukee County, which is not part of the county parks and parkways. The word "gun" shall include airgun.

(2) *Times for the setting off of fireworks displays on county-owned parks and parkways.* No person shall cause or allow the setting off of fireworks on the county-owned parks, or on the parkways, after 12:00 midnight on any Friday or Saturday, or on any day that is, or precedes, a holiday, or unless prior approval is obtained from the county board. No fireworks shall be set off on any other day, after 10:00 p.m., unless prior approval is obtained from the county board.

Throwing of stones or missiles. No person shall throw stones or missiles in or into any park or parkway.

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The policy of the Milwaukee County Sheriff's Office is to enforce all county ordinance violations that we encounter, witness, or are referred to. Fireworks are a potentially serious violation of the law, as they may cause injury, harm or set fire, if not used by licensed and authorized persons. In and of themselves, the illegal use of fireworks creates, and is indicative of, the type of general disorder that we expressly attempt to halt in enforcing quality of life issues.


With 144 parks located in Milwaukee County, it is a challenge to enforce all complaints, especially as we near the 4th of July. However, rest assured that the Milwaukee County Sheriff's Office will do all it can to strictly enforce illegal fireworks usage. Our Targeted Enforcement Unit, a uniformed division that monitors county parks during the summer months (when they are at their highest usage) is particularly tasked with this responsibility.

What could help the Milwaukee County Sheriff's Office, as well as the community, is a media campaign to inform citizens that fireworks are illegal to discharge in Milwaukee County. Also, it may be helpful to send flyers to the public schools, explaining to youth the need to refraining from discharging illegal fireworks, as well as the potential fines associated with that activity. Additionally, your committee may wish to engage the public in a discussion regarding the potential for legislation prohibiting the sale of fireworks throughout the entire State of Wisconsin.

Gentlemen, it was pleasure appearing before your committee. Thank you, on behalf of Sheriff Clarke, for the opportunity to be involved in your discussions.

Sincerely,


R. Bret Richards, Captain *CP-27*
Patrol Division


Edward H. Bailey, Deputy Inspector
Adjutant, Office of the Sheriff

APPENDIX I

The Milwaukee District Attorney's Office Correspondence

MILWAUKEE COUNTY DISTRICT ATTORNEY'S OFFICE
Correspondence / Memorandum

To: John Chisholm
From: Karen Loebel
Date: May 31, 20072
Subject: Wis. Stats. §167.10

John,

You asked that I review Wis. Stats. §167.10, particularly, subsection (8)(a), which provides for court orders enjoining conduct prohibited by the statute. My conclusion is that injunctions under §167.10(8)(a) can be issued only against named individuals or entities, based on allegations of one or more specific prior violations of the fireworks statute or a local ordinance. Following is a summary my review.

Wis. Stats. §167.10 is a safety statute, created in 1984 by 1983 Wis. Act 446, which repealed and created a prior statute under the same statutory section. Although it has been modified by subsequent legislation, the statute enacted in 1984 is substantially similar to current law.

Wis. Stats. §167.10 is designed to prevent fireworks injury by strictly regulating the sale and use of fireworks in Wisconsin. (*Cornellier Fireworks Co. v. St. Croix Co.*, 119 Wis.2d 44, 46, 349 N.W.2d 721 (Ct. App. 1984) Under the statute, fireworks are defined as "anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use;" certain common items, such as firearm cartridges, emergency flares, sparklers and some toys are exempted from the definition. [See, Wis. Stats. §167.10(1)(a)-(n)] The statute provides that fireworks may be sold to and used only by specifically designated groups or individuals who are eligible for permits; those groups or individuals must observe statutory requirements for the handling and storage of the fireworks. [*Cornellier Fireworks Co. v. St. Croix Co.*, 119 Wis.2d at 46; §167.10 (2), (3), and (6)]. The statute provides that towns, villages and cities may enact local ordinances that prohibit or regulate the sale or use of fireworks, but any such ordinance cannot be less restrictive than the state statute. [§167.10(5)]

Violations of §167.10(2), (3), and (6), relating to the sale, use and storage of fireworks are non-criminal, subject to forfeitures of not more than \$1000. However, §167.10(8)(a) provides that a city, village or town may petition the circuit court for an order enjoining violations of sub. (2), (3) or (6) or an ordinance adopted under sub. (5). Violations of those court orders are punishable by fines not to exceed \$10,000, imprisonment not to exceed 9 months, or both.

Unfortunately, §167.10 does not establish any parameters for the issuance of court orders enjoining the sale, use, or handling of fireworks. The statute does not set forth the manner of application for such an injunction; what factual or legal conditions precedent must be met before an injunction can be issued under that section; the burden of proof by which any such conditions must be established, or under what circumstances a group or individual may be subject to an injunction. Nor does the

statute establish whether an injunction need be directed against a named individual or organization or whether it can be directed, in general, against all persons who might in the future engage in conduct prohibited by §167.10(2), (3) or (6).

There are three Wisconsin cases which address injunctions issued in fireworks cases. In two, injunctions had been sought by a city or county; in the remaining, the injunction was sought by the fireworks distributor, seeking an order enjoining the jurisdiction from prosecution under the statute.

In *City of Wisconsin Dells v. Dells Fireworks*, 197 Wis.2d 1, 539 N.W.2d 916 (Ct. App. 1995), the City of Wisconsin Dells filed a forfeiture action against Dells Fireworks for allegedly selling specified fireworks to individuals who did not have the necessary permits, in violation of the state statute; in conjunction with that complaint, the City sought an injunction to prohibit such sales in the future. The ordinance violations were dismissed in the trial court because they were the subject of another action in another branch of the circuit court in the county, but granted an order enjoining Dells Fireworks from selling or delivering the fireworks contrary to law. It is not clear under what statute the court issued that injunction. The City later filed a contempt action for continued violations of the injunction; the court found Dells Fireworks in contempt. The court imposed a remedial sanctions for the contempt under § 785.01(3) and 785.02, Stats. and imposed a forfeiture under §167.10(9)(b) for the new violation. Because it appears that there was no criminal prosecution for the violation of the injunction under §167.10(9)(a), it may be that the injunction issued by the court was issued under another statutory section (such as §823.02) rather than §167.10(8)(a).

In *State v. Siegel*, 163 Wis.2d 871, 472 N.W.2d 584 (Ct. App. 1991), the State brought a forfeiture action against 3 individuals for selling fireworks in violation of §167.10(2); at the same time, the State sought an injunction under §823.02, the public nuisance statute, to place restrictions on the business in the future. The issues on appeal was whether the Siegels' business was wholesale or retail, and whether there was sufficient evidence that the sales had been made to non-Wisconsin residents to justify the injunction. The court of appeals upheld both the forfeiture conviction and the injunction.

In *Cornellier Fireworks Co. v. St. Croix Co.*, 119 Wis.2d 44, 349 N.W.2d 721 (Ct. App. 1984), Corenellier filed suit to enjoin the county and its law enforcement officials from threatening to or actually arresting, charging, or prosecuting Cornellier or its customers for participating in fireworks transactions. The County cross-claimed for a permanent injunction barring such transactions. It is apparent that this injunction was not one sought under §167.10(8) (because the injunction was sought by the county which is not an entity authorized to seek an injunction under that statute and because the request for injunctive relief came in a cross-claim in Cornellier's suit). The issue on appeal was whether Cornellier, a fireworks wholesaler was in compliance with the statutory requirements for shipping fireworks out of state. The court of appeals upheld the trial court's determination that it was not as well as its decision to deny Cornellier's injunction and grant that of the county.

Because there is so little case law on point, I contacted several other District Attorney's Office around the state, to inquire whether any municipalities in their jurisdictions had sought injunctions under §167.10(8)(a). The responses (from Brown County, Rock County, Waukesha County, Racine County, Kenosha County, and Dane County) were all in the negative. Each prosecutor I spoke with indicated that he or she was unaware of any such injunction having been issued in his or her county

and confirmed that firearms violations in that county were prosecuted as civil forfeitures, not criminal acts. The prosecutor I spoke with in Kenosha County indicated that he had done a number of nuisance abatements on property where fireworks were sold, both in his county and assisting some other counties with similar measures. However, these were civil prosecutions under nuisance regulations, not injunctions under §167.10(8). This prosecutor also voiced the general policy preference that prosecutions for fireworks violation remain at a local, not state, level, because they offend the safety and well being of the community at a local level.

In each of the cases cited above, the target of the action was an individual or corporation that was alleged to have committed previous specific violations of the fireworks statute or local ordinances adopted in conformity therewith. It is not clear whether the court would have the authority to issue a blanket injunction against unnamed individuals for all future, unspecified, violations of §167.10(2), (3), or (6), or a local ordinance adopted under (5). In my opinion, the court would not have that authority, or if it did, criminal allegations of violations of those injunctions would not be provable beyond a reasonable doubt.

Generally, criminal prosecutions require an element of scienter. *State v. Stevenson*, 2000 WI 71, ¶ 34, 236 Wis.2d 86, 613 N.W.2d 90. Within the context of violations of injunctions or restraining orders, that takes the form of a "knowing" violation of the order. *See*, e.g. Wis. Stats. §813.12(8)(a) Stats. We have interpreted that for a violation of the court order to be knowing, there must be actual notice of the existence of the order, generally by service of the order on the enjoined party. Moreover, the issuance of a court order, unless specifically authorized to be *ex parte*, requires that the petitioner serve the respondent with notice of the time and date of the hearing on the injunction hearing at which the respondent can appear and contest the injunction. (*See*, e.g. 813.125(4)(a)2; 813.122(5)(a)2; and 813.12(4)(a)2) Moreover, before injunctions are issued, other statutes which provide for injunctive relief generally require that the petitioner establish a reason for the issuing magistrate to believe that that the respondent has engaged in conduct in the past (*See*, e.g. 813.125(4)(a)3; 813.122(5)(a)3) Finally, an injunction should be drafted to enjoin specific conduct, so as not to infringe on legal or protect conduct. A procedure to obtain a broadly issued order enjoining all unnamed persons from engaging in any illegal future conduct would not provide an opportunity for individuals to contest the order; and there would be no mechanism for service of any such order, even if it could be drawn in a sufficiently narrow manner.

There are no Attorney General Opinions which interpret §167.10(8)(a). (77 Op. Att'y Gen. 270 (1988), the only Attorney General opinion which mentions §167.10 at all simply notes in another context that violations of that statute are forfeitures handled by the District Attorney's Office.) Because of the dearth of case law and lack of guidance within the statute itself, it may be appropriate to solicit a formal Attorney General Opinion as to the parameters of §167.10 (8)(a).