REPORT TO COUNCIL
City of Sacramento

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STAFF REPORT
March 17, 2009

Honorable Mayor and
Members of the City Council

Title: Justice for Neighbors Operating Project

Location/Council District: Citywide

Recommendation: Adopt a **Resolution**: 1) establishing a multi-year operating project in the City Attorney's Office for the Justice for Neighbors ("JFN") project; 2) transferring $6,330 in Externally Funded Programs (Fund 2703) from the Beat Feet project (E11000200) to the JFN project and close E11000200; 3) transferring $138,269 General Fund (Fund 1001) Gun Litigation Reserve to the JFN project; and 4) authorizing the City Manager to adjust the revenue budget for the City Attorney's Office and the expenditure budget for the JFN project based on the actual fees collected from third parties for Public Nuisance, Social Nuisance and JFN actions brought by the City Attorney annually.

Contact: Eileen M. Teichert, City Attorney, 808-5346

Presenters: Eileen M. Teichert, City Attorney, 808-5346

Department: City Attorney

Division: City Attorney

Organization No: 030001011

Description/Analysis

Issue: This report requests authorization to establish a Justice for Neighbors (JFN) multi-year operating project for the administration and enforcement of the City's Public Nuisance and Social Nuisance Codes. In FY2007/08, the City Attorney's Office (CAO) recovered $43,444 from persons causing public and social nuisances in Sacramento neighborhoods and such funds are required by law to be used for administration and cost recovery. The Beat Feet project and Gun Litigation Reserve funds in the City Attorney's Office budget need to be transferred to the JFN project so the funds may be expended on JFN actions consistent with their original purposes of combating prostitution and gun violence. Approval of a JFN multi-year operating project will ensure that such funds are spent in furtherance of JFN actions and in accordance with the law.

Policy Considerations: The guiding vision of the Mayor and City Council is that Sacramento will be the most livable city in America. While developing the 2030 General Plan, City residents were asked to identify the important issues to be addressed in the updated General Plan. The highest ranked issue or topic was the desire for safe neighborhoods. Establishing an operating project to sustain efforts to eradicate public and social nuisances in the City is consistent with supporting safe neighborhoods.

The JFN project will be used exclusively to pay for activities and efforts that further and promote the administration and enforcement of the City's Public Nuisance and Social Nuisance Codes, including:

- Funding a portion, or all of the salary, of one or more Sacramento Police Department ("SPD") Problem Oriented Policing ("POP") officer(s), Sacramento Police Department Community Service Officer(s), or City Code Enforcement Officer(s) that focus on eradicating public and social nuisances

- Funding City elementary and/or high school programs where City Attorneys and SPD Officers (e.g., gang unit) educate students on the Social Nuisance Code and the consequences of gangs, guns, and illegal drug use

- Training seminars that educate attorneys and police and code enforcement officers on effective community policing and prosecution of public and social nuisances in the City

- Purchasing specialized cameras for the Solid Waste Division to detect and record illegal dumping at known locations with a history of illegal dumping

- Advancing fees to the City's Department of Transportation to design and construct court ordered "Drug and Gang Free Zone Signs" and later recover those fees from the social nuisance defendants required to install them on their properties

Environmental Considerations:

California Environmental Quality Act (CEQA): This action is not subject to the California Environmental Quality Act (CEQA) because it does not constitute a "project" as defined in section 15378 of the CEQA guidelines, and is otherwise exempt pursuant to section 15061(b)(3) (no significant effect on the environment) of the CEQA Guidelines.

Sustainability Considerations: None.

Commission/Committee Action: None.

Rationale for Recommendation: Establishment of the JFN operating project and use of funds for the administration and enforcement of the City's Public Nuisance and Social Nuisance Codes is consistent with the purpose and intent of the Social Nuisance Code.

Financial Considerations: This project will be utilized to support activities and efforts that further and promote the administration and enforcement of the City's Public Nuisance and Social Nuisance Codes. Revenue collected into the project will fluctuate up and down as civil and criminal penalties and fees are recovered and as authorized expenditures are ordered by the City Attorney.

Emerging Small Business Development (ESBD): N/A

Respectfully submitted,

EILEEN M. TEICHERT
City Attorney

RICK BRAZIEL
Chief of Police

MAX FERNANDEZ
Code Enforcement Director

Recommendation Approved:

for RAY KERRIDGE
City Manager

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BACKGROUND: **Attachment 1**

BEAT FEET

In 1999, the City Council adopted Sacramento City Code section 8.14 (also known as "beat feet") that declared it a public nuisance for any vehicle used to solicit or attempt to solicit an act of prostitution, or loiter for the purpose of soliciting an act of prostitution. A comprehensive process was established to seize vehicles and sell or dispose of them. The ordinance further provided that all fees and penalties recovered by the City Attorney through settlement or forfeiture were to be used solely for the administration and enforcement of the beat feet ordinance. In 2003, after a series of successful court challenges to similar beat feet ordinances in other jurisdictions the City decided to stop enforcement of the beat feet ordinance. Unless state legislation is adopted to resurrect enforcement of local beat feet ordinances there is no expectation of future enforcement under the City's existing ordinance. Consequently, the beat feet project (E11000200) sits inactive and is projected to remain inactive for the foreseeable future.

The Beat Feet project currently has a balance of $6,330.64. Because the beat feet project was established to eradicate a social nuisance (prostitution) staff recommends transferring the total amount of those funds to the JFN operating project where the funds can be used to attack prostitution and other social nuisances under the Social Nuisance Code.

GUN LITIGATION

In 1999, the City joined eleven other cities and counties in California to initiate a lawsuit against the gun industry. The intent of the litigation was not to promote gun control or destroy otherwise legitimate businesses, but rather to foster gun safety, gun education and ensure safer communities. One of the chief causes of action was to declare the unlawful sale and distribution of guns a public nuisance and to force the gun industry to regulate itself in such a way that would prohibit and prevent gun sales and transfers to minors, felons and other disqualified individuals. To support the litigation the City Council designated $158,443.00 from proceeds of an unrelated settlement to establish and finance the Gun Litigation General Fund designation.

During the litigation, five gun industry defendants settled on favorable terms to the plaintiffs. However, in 2005 a court of appeal found in favor of the gun industry defendants and entered a judgment against the eleven cities and counties. As a result, the cities and counties dismissed the lawsuit and terminated the litigation.

There is no expectation of future litigation against the gun industry defendants. Consequently, the gun litigation General Fund designation sits inactive and is projected to remain inactive until further authorization from the City Council on its future use.

The gun litigation General Fund designation currently has a balance of $138,269. Because the designation was established to eradicate social nuisance (gun violence) in the City, staff recommends transferring the total amount of those funds to the JFN operating project where the funds can be used to attack gangs and gun violence that fall under the Social Nuisance Code.

JUSTICE FOR NEIGHBORS

On August 1, 2006, the Mayor and City Council established the Justice for Neighbors ("JFN") program targeting major social and criminal nuisance cases that degrade the quality of life in the City's neighborhoods. Executive team members of the JFN committee meet once a month to identify, process, manage, resolve, and publicize the results of the most serious nuisance and security issues affecting the City. The JFN committee consists of management level employees from the City Attorney's Office (CAO), Sacramento Police Department (SPD), Department of Utilities, Solid Waste Division (SW), Code Enforcement Department (CE), Neighborhood Services Department (NSD), Sacramento Housing and Redevelopment Agency (SHRA), and the District Attorney's Office Community Prosecutor for downtown complaints (DA).

On July 31, 2007, staff last appeared before the City Council to evaluate and measure the progress of the JFN. At that time we reported the following cases that were handled in that one year period by the JFN committee and resolved with either a preliminary or permanent injunction in place and/or significant decreases in calls for police or other City department services:

1. 1454 Del Paso Boulevard (Alcohol-related problems--The Plantation) (Dist. 2)
2. 5301 Fruitridge Road (Alcohol-related problems-World Wines & Liquors) (Dist. 5)
3. 4281 67th Street (Drug house--Single family residence) (Dist. 6)
4. 18 Massie Court (Gold Rush Inn) (Dist. 8)
5. 3982 60th Street (Gang hangout--Tallac Lounge) (Dist. 6)
6. 1481 Meadowview Road (Alcohol-related problems--United Gas & Food) (Dist. 8)
7. 5321 Stockton Boulevard (Drugs and prostitution--Budget Inn) (Dist. 5)
8. 3371 62nd Street (Drug house-Single family residence) (Dist. 6)
9. 4501 61st Street (Drug house-Single family residence) (Dist. 6)
10. 3491 24th Avenue (Drug house-Single family residence) (Dist. 5)
11. 3900 Limestone Way (Drug house-Single family residence) (Dist. 8)
12. 1900 Canterbury Road (Drugs and prostitution--Canterbury Inn) (Dist. 2)
13. Illegal Dumper–Convicted of misdemeanor and sentenced to 30 days in jail. (Dist. 5)

Initial feedback from the City Council after the program's first two years has been favorable. Many more cases have been brought and are in progress.

The success of the JFN program corresponds with a growing workload in social nuisance cases for the City Attorney's Office. Historically, the City Attorney's Office handled or prosecuted an average of two social nuisance actions a year. But in 2006, in response to the City Council's direction to increase the security in the City's neighborhoods and with the creation of the JFN program the City Attorney re-prioritized our mission to emphasize enforcement of the City's Social Nuisance Code and to focus on early intervention and partnership with Problem Oriented Policing ("POP") officers.

As a result, in 2007 City Attorney's Office workload sharply increased to 33 social nuisance actions, and in 2008 staff increased the number to 37 – a 1,800% increase over 2006.

A welcome by-product of successful social nuisance abatement cases is the dramatic reduction in calls for police service. For example, at World Wine & Liquors, a store notorious for criminal activity, the calls for police service dropped from an average of 168 calls a year before abatement to just 10 a year after abatement, a 94% decrease. If, as we believe, the other 36 actions handled through the JFN program during 2007-2008 each resulted in a comparable decrease of over 150 calls, then the JFN program has greatly enhanced the Police Department's ability to respond to higher priority calls and serious criminal problems.

The Police Department's POP teams and the City Attorney's Office take an aggressive approach against gang members, drug sellers, prostitutes, and property owners who permit their properties to be used for criminal activities in violation of the City's Social Nuisance Code. Bad behavior results in monetary fines and penalties for property owners. In 2007-2008 the City Attorney's Office recovered $43,444 in penalties and fines. In mid FY2008/09 we have demanded and been awarded over $300,000 (outstanding and not recovered) in penalties and fines pursuant to the Social Nuisance Code. In light of the growing foreclosures, limited public safety resources, and poor economy staff expects our social nuisance cases, as well as the penalties and fines that accompany successful abatements, to continue to increase in the next fiscal year.

The City Attorney's Office has successfully performed this legal work with reduced staffing and with budget reductions during the last two years. Further City Attorney's Office staff reductions are being proposed for fiscal year 2009-2010. No budget augmentation has been sought by any of the JFN departments to fund JFN activities.

SOCIAL NUISANCE CODE

The Social Nuisance Code provides as follows: "Use of fees and penalties. All fees and penalties received by the city pursuant to this chapter shall be used exclusively for administration and enforcement of this chapter [Social Nuisance Code] and Chapters

8.96 [Dangerous Buildings Code] and 8.100 [Housing Code]..." (Sacramento City Code section 8.08.260). The intent of this section was to reinforce and strengthen the City's public and social nuisance enforcement activities through a self-generating funding mechanism.

In order to comply with the "use of fees and penalties" section of the Social Nuisance Code the City Attorney's Office recommends establishing a JFN operating project into which will be deposited any future fees and penalties that are recovered by the City Attorney's Office pursuant to this code. After the JFN project is established, the City Attorney will use the project funds "exclusively for administration and enforcement" of the Social Nuisance and Public Nuisance Codes (includes Housing and Dangerous Buildings Codes).

CONCLUSION

Aggregation of all of these monies into one JFN operating project and appropriating use of this project for JFN purposes is a logical first step towards partial funding of JFN activities.

RESOLUTION NO.

Adopted by the Sacramento City Council

JUSTICE FOR NEIGHBORS (JFN) OPERATING PROJECT

BACKGROUND

A. The Justice for Neighbors Program targets major social and criminal nuisance cases that degrade the quality of life in the City's neighborhoods.

B. The City Attorney's Office has been increasingly successful in recovering fees and penalties from persons causing social nuisances through Justice for Neighbors litigation and legal efforts.

C. The Social Nuisance Code provides that all fees and penalties received by the City pursuant to it shall be used exclusively for administration and enforcement of the [Social Nuisance Code] and Chapters 8.96 [Dangerous Buildings Code] and 8.100 [Housing Code].

D. To comply with the Social Nuisance Code's provision set forth in section C, above, a Justice for Neighbors operating project is established to store, track, and spend proceeds recovered pursuant to the Social Nuisance Code.

E. The Beat Feet project and the gun litigation General Fund designation, controlled by the City Attorney, are no longer needed in their present forms and the most effective use of these resources is to administer and enforce the Social Nuisance and Public Nuisance Codes.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. A multi-year operating project is established in the City Attorney's Office entitled Justice for Neighbors ("JFN").

Section 2. $6,330 in Externally Funded Programs (Fund 2703) is transferred from the Beat Feet project (E11000200) to the JFN project and the Beat Feet project is closed.

Section 3. The $138,269 General Fund (Fund 1001) Gun Litigation Reserve is transferred to the JFN project.

Section 4. The City Manager is authorized to adjust the revenue budget for the City

Attorney's Office and the expenditure budget for the JFN project based on the actual fees, penalties and other monies collected from third parties for Public Nuisance, Social Nuisance and JFN actions brought by the City Attorney annually.