



Administrative Report

N.5., File # 20-1070

Meeting Date: 8/18/2020

To: MAYOR AND CITY COUNCIL

From: BRANDY FORBES, COMMUNITY DEVELOPMENT DIRECTOR

TITLE

DISCUSSION AND POSSIBLE ACTION REGARDING SUPPLEMENTAL CODE ENFORCEMENT SERVICES

EXECUTIVE SUMMARY

At the June 16, 2020 City Council meeting adopting the Redondo Beach municipal budget, the City Council requested that staff provide a report regarding the possibility of supplementing the current code enforcement services. This report addresses the history of staffing and procedures for code enforcement, the current code enforcement levels and budget constraints, and a comparison of supplemental code enforcement options, especially related to targeting leaf blower ordinance violations.

BACKGROUND

Code Enforcement Background on Process and Staffing

The approach of Code Enforcement in the City of Redondo Beach has always been to try to gain voluntary compliance through education and outreach. Working through cases for those in non-compliance, including gathering evidence, preparing reports, and providing testimony for administrative hearings and prosecution, is typically very time consuming. As a result, the Quality of Life demands of our community often times exceed the limits of the City's resources. That is why the department has historically focused on tactics that achieve voluntary compliance, and only pursue prosecution efforts on issues that arise from sustained complaints.

Historically, two Code Enforcement Officers worked under the Municipal Enforcement Division which included 6 full time and multiple part time Municipal Services Officers (MSOs) in the areas of parking enforcement and animal control, which were overseen by a Municipal Enforcement Manager in the Planning, Transit, and Municipal Enforcement Department. This structure offered Code Enforcement staff additional immediate resources in the field, as they were able to coordinate seamlessly with the various MSOs.

A restructuring of departments approximately 15 years ago resulted in the MSOs being moved to the Police Department. The Municipal Enforcement Manager and two Code Enforcement Officers remained in the Planning Department, leaving a staff of three dedicated to code enforcement work. The Municipal Enforcement Manager offered the most expertise in transitioning cases from a voluntary compliance approach to a more traditional enforcement approach and oversaw the work of the two remaining Code Enforcement Officers.

A few years later, in Fiscal Year 2009-2010, the Municipal Enforcement Manager position was deauthorized, leaving only two employees dedicated to code enforcement. The deauthorization of this position was a major impact to code enforcement resources, and forced even more emphasis on efforts to gain voluntary compliance, as the employee with the most experience and skill in preparing cases for prosecution, the Municipal Enforcement Manager, was no longer with the City. Further department restructuring placed the code enforcement personnel under the supervision of the Chief Building Official. However, given that the Chief Building Official also oversees the entire Building and Safety Division, this did not result in much additional manpower for code enforcement supervision and support.

Since that time, the nature of citizen complaints has evolved. Previously, the majority of cases came from phone calls or in-person visits to City Hall. Technological advances have provided opportunities for citizens to now submit their complaints by email or through the online customer service center, significantly increasing the number of cases, and also requiring additional staff time to reply to emails and online requests.

Current Code Enforcement Staffing and Budget

The City currently has 2 full time (FT) Code Enforcement staff positions in the Community Development Department. During the 2019-2020 budget process it was proposed to add a part time (PT) Code Enforcement position to address increased code enforcement workload, but the City's budget constraints at the time did not allow for the implementation of additional staffing.

When preparing the budget for FY 2020-2021, before the COVID-19 related emergency, the Community Development Department was considering the possibility of using a portion of the budget line item for contracts and professional services to provide supplemental enforcement support through the hiring of a consulting firm. However, a significant portion of the proposed reductions to the Community Development budget needed to offset the impacts of COVID-19 came from the same contracts line item and would eliminate any available funds for the expansion of code enforcement service. Restructuring the proposed budget reduction to leave funding in the contracts account would mean having to deplete another line item even further. In Community Development, the only other substantial line item would be personnel.

At the budget hearing, the question was raised of whether or not the use of a supplemental code enforcement contract would generate additional City revenue that would in full or in part offset the contract cost. It was suggested that there might be some new revenues generated from fines due to an increase in the number of citations issued. Depending on the type of citation, the City may only receive a fraction of the base fine that is collected through the courts. Thus, the revenues from those fines would not be expected to cover the expenditure of the enforcement contract.

Separately, increased compliance may generate some indirect revenue, such as in cases where the violation is due to failure to obtain a business license and the violator staves off prosecution by obtaining the license (and simply paying the fee). However, there are many violations that do not result in this type of revenue collection and the more likely result would be increased compliance with City codes, but at an increased expense to the City's General Fund.

The Community Development Department has reached out to other South Bay municipalities to inquire about their practices. Torrance and El Segundo do not contract out for any code enforcement

services at this time. Only recently have Manhattan Beach and Hermosa Beach contracted out for supplemental code enforcement-and those services are only for COVID-19 related mask compliance where in there is expected to be significant citation issuance at the outset and services tapering as compliance is reached.

Comparison of Outside Contract, Part Time Employment, and Overtime for Supplemental Enforcement-Targeting Leaf Blowers

Current Enforcement of Leaf Blower Ordinance

When the City receives the address, day of week, and time of day that the gardener is typically using the leaf blower, staff can target their efforts on those areas. Code Enforcement staff goes out one day a week, alternating the day of the week, to try to issue citations. As noted at the Council meetings recently, staff have to be prepared with the Personal Protective Equipment (PPE) as an added health protection against COVID-19, since citations must be signed by the violator and require direct contact. Citations are issued to the person using the leaf blower and the Code Enforcement Officer has to witness the use of the leaf blower in order to issue the citation.

In October 2019 City Council directed staff to only issue citations and not notices. That has been the focus of code enforcement staff as it pertains to leaf blowers. As well per City Council direction, the intent has been to address the violator, not the property owner. In the past month, Code Enforcement staff have gone out to addresses where the reporting party has provided days of week and times of day of leaf blower use. Some days staff have had success and issued citations, whereas other days they have been out to reported areas for several hours and do not witness leaf blower use. Staff have found that some of the reported sites are not actually leaf blower use, but other equipment. Examples of what has been discovered instead are smaller lawn mowers, air compressors, sanders, and leaf vacuums.

Code Enforcement staff have had discussions with those being issued citations, where it is conveyed that the gardener sees the citation/fine as a risk they are willing to take and, thus, a cost of doing business, since the use of leaf blowers is cost effective for their work. Issuing citations to the gardener may not be an effective deterrent for future use of the leaf blowers. City Council may want to reconsider the option of citing a property owner instead of the gardener in order to see a change of culture regarding leaf blower usage.

Training Requirements

The Community Development Department reached out to the contract code enforcement firm Willdan Engineering to get information on their services. This consulting firm specializes in code enforcement, whereas others are geared more toward Building and Engineering services. The code enforcement employees at Willdan Engineering have all passed the PC832 Arrest and Firearms Training Course. This is the minimum training standard for California peace officers. The Code Enforcement staff employed with the City have this required training, as well. This is standard training needed for a person to be authorized to issue citations on behalf of the City.

Costs of Additional Leaf Blower Ordinance Enforcement

There are three basic options to compare costs for supplementing code enforcement services for the City. Those include hiring an outside consultant for part time hours, hiring a part time (PT) employee in house, or budgeting overtime (OT) for existing employees to increase the number of hours spent addressing leaf blower complaints (deferring non-leaf blower issues to the overtime hours in order to spend more time on leaf blower complaints during regular business hours).

- Consultant: \$65/hour. A contract of \$35,000/year is approximately **10 hours/week**.
- PT Employee: \$30/hour. Pay of \$30,000/year is approximately **20 hours/week** (does not trigger CalPERS). Alternatively, pay of \$15,600/year is **10 hours/week**.
- OT Existing Employees: \$60/hour. Overtime of \$31,200/year is **10 hours/week**.

Revenues

Since the leaf blower citations are criminal rather than administrative, the City may only receive a fraction of the base fine that is collected through the courts. Thus, the revenues from those fines would not be expected to cover much (approximately 15%) of the expenditure of the enforcement contract. Even if the municipality were to shift to administrative citations, which has other consequences and risk factors, the expected collection rate on fines would be 60-65% of the fines.

If 5 citations were issued in a 10-hour work week, which is an extremely high estimate based on the hours invested per citation issued even when staff have had targeted addresses, at \$100 per fine and expecting a 15% recovery under existing citation format, the City could collect approximately \$3,900 annually. That would cover only a small fraction of the expense. In order to recover the entire contract cost of \$35,000 per year, a total of just over 2,300 leaf blower citations would need to be issued, approximately 45 per week, which is well beyond what can realistically be expected on a part-time basis.

Although transferring focused enforcement efforts to a designated Code Enforcement officer may result in more citations than currently are being issued, not all of the 10-hour work week would be spent investigating sites and issuing citations. There would still be other responsibilities related to the citations, such as filing the citations and possible court appearances. Thus, the example of 5 citations being issued in a 10-hour work week is a high, albeit reasonable, expectation when there are other responsibilities tied to the enforcement process.

Any added revenues would be a small fraction of the cost for supplemental code enforcement services.

COORDINATION

This report has been coordinated with the City Attorney's office and the City Manager's Office. Staff also consulted with outside municipalities and third-party firms to understand other practices and services.

FISCAL IMPACT

To meet budgetary shortfall as a result of COVID-19, the contract services portion of the Community Development budget was cut, along with all but necessary operating expenses. In Community Development, the only other substantial line item would be personnel, which was also cut to reduce two filled FT positions to PT positions.

Adding contract or supplemental code enforcement services would require a one-time appropriation from General Fund reserves, as all of the budget for contract and professional services in Community Development is committed to current activities and any further changes to the Department's personnel budget would reduce, rather than enhance, service levels.

The cost of preparing this staff report is part of the Community Development Department's annual work program and is included in the Department's portion of the adopted 2020-2021 Annual Budget.