City of Laguna Beach
AGENDA BILL

Meeting Date: 09/12/2017

SUBJECT: AN URGENCY ORDINANCE PROHIBITING THE CARRYING OR POSSESSION OF ITEMS AND ARTICLES GENERALLY CONSIDERED A WEAPON OR REASONABLY CAPABLE OF BEING USED AS A WEAPON WHILE ATTENDING OR PARTICIPATING IN A DEMONSTRATION, RALLY, PROTEST OR OTHER PUBLIC ASSEMBLY ON A CITY BEACH OR IN A CITY PARK

SUMMARY OF THE MATTER:

On August 20, 2017, the group “America First” held a rally at Main Beach. This was the fourth such rally at this location. Prior to the August 20 rally, a similar rally was held in the city of Charlottesville, Virginia that turned violent, and a participant was killed and many others were injured when a vehicle was driven through the crowd in anger. With increasing regularity, groups and individuals are planning and carrying out sizeable demonstrations, rallies, protests, and other public assemblies throughout the nation, State, and within the City of Laguna Beach.

Groups and individuals attending or participating in such events have brought with them weapons and/or items or articles that are generally considered as reasonably capable of being used as weapons to commit unlawful and/or violent acts during the event, posing serious threats to life, safety, and property. During the August 20 event within the City of Laguna Beach, persons were determined to have been in possession of daggers, pepper spray, sticks, poles, chains, and metal pipes. (continued)

RECOMMENDATION: It is recommended that the City Council:

Approve and adopt by title only AN ORDINANCE OF THE CITY OF LAGUNA BEACH, CALIFORNIA ADDING SECTION 18.04.110 TO THE LAGUNA BEACH MUNICIPAL TO PROHIBIT THE CARRYING OR POSSESSION OF ITEMS AND ARTICLES GENERALLY CONSIDERED A WEAPON OR REASONABLY CAPABLE OF BEING USED AS A WEAPON WHILE ATTENDING OR PARTICIPATING IN A DEMONSTRATION, RALLY, PROTEST OR OTHER PUBLIC ASSEMBLY ON A CITY BEACH OR IN A CITY PARK, AND DECLARING THE URGENCY HEREOF PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 36937.

Appropriations Requested: $__________________
Fund:______________________________
Attachments: A) Ordinance; B) Long Beach Press
Telegram Newspaper Article; C) OCIAC Officer
Safety Flyer

Submitted by: Laura Farinella, Chief of Police
Coordinated with: City Attorney

Approved: John Pietig, City Manager
Two attachments, one from the Long Beach Press Telegram and the other an OCIAC Officer Safety Flyer, have been provided that highlight this threat to both police officer and rally participants. Notwithstanding the ability of these items to be used as weapons against other persons, they are not prohibited per se and can be brought to the location of the event. In order to best protect the rally participants, non-participating members of the public, and public safety personnel, prohibiting persons attending or participating in rallies from possessing such items will make these events safer for everyone. Considering the unpredictable and frequently spontaneous nature of when a rally may occur, the Police Department recommends that the attached ordinance be approved on an urgency basis so that its provisions take effect immediately. This ordinance must be adopted by a 4/5th vote of the City Council.
ORDINANCE NO. ___

AN ORDINANCE OF THE CITY OF LAGUNA BEACH, CALIFORNIA ADDING SECTION 18.04.110 TO THE LAGUNA BEACH MUNICIPAL TO PROHIBIT THE CARRYING OR POSSESSION OF ITEMS AND ARTICLES GENERALLY CONSIDERED A WEAPON OR REASONABLY CAPABLE OF BEING USED AS A WEAPON WHILE ATTENDING OR PARTICIPATING IN A DEMONSTRATION, RALLY, PROTEST OR OTHER PUBLIC ASSEMBLY ON A CITY BEACH OR IN A CITY PARK, AND DECLARING THE URGENCY HEREOF PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 36937

The City Council of the City of Laguna Beach does ORDAIN as follows:

SECTION 1. The City Council makes the following declarations and findings:

A. With increasing regularity, groups and individuals are planning and carrying out sizeable demonstrations, rallies, protests, and other public assemblies throughout the nation and the State of California and within the City of Laguna Beach without obtaining reservations or permits.

B. Of late, groups and individuals attending or participating in such events have brought with them weapons and/or items or articles that are generally considered as reasonably capable of being used as weapons to commit unlawful and/or violent acts during the event, posing serious threats to life, safety, and property. During recent events within the City of Laguna Beach, persons have carried or been in possession of daggers, pepper spray, sticks, poles, chains, and metal pipes.

C. On occasion, sizeable demonstrations, rallies, protests, and other public assemblies proposed or planned throughout the nation and the State of California and on beaches and parks within the City of Laguna Beach have spilled over and onto streets and sidewalks. When persons migrate via streets and sidewalks to various locations beyond the intended site of the event, it becomes more difficult to control crowds and maximize public safety.

D. A primary mission of the City Council is to preserve public safety, protect public and private property, and prevent damage to City facilities while fairly balancing the rights of persons to freedom of speech and peaceful assembly during demonstrations, rallies, and protests on public property.

E. This Ordinance is adopted as an urgency measure pursuant to Government Code section 36937(b) and is required for the immediate preservation of the public health, safety, and welfare with regard to sizeable demonstrations, rallies, protests, and other public assemblies on public beaches and in public parks, and with the understanding that further such events are proposed or planned within the City of Laguna Beach, and thus it is imperative that the regulations established by this Ordinance become effective as soon as possible.
SECTION 2. Section 18.04.110 is hereby added to Chapter 18.04 (“Conduct”) of Title 18 (“Beach and Parks”) of the Laguna Beach Municipal Code to read in its entirety as follows:

18.04.110 Prohibition of carrying or possession of specified items or articles while attending or participating in any demonstration, rally, protest or other public assembly.

(a) No person, while attending or participating in any demonstration, rally, protest or other public assembly on any city beach or in any city park, shall carry or possess any of the following items or articles: metal pipes; baseball or softball bats; lengths of lumber or wood (any size); poles; bricks; rocks; glass bottles; metal beverage or food cans or containers; pepper or bear spray (OC spray); mace; knives; firearms; combat shields; axes, axe handles, or hatchets; ice picks; razor blades; conducted electrical weapons (CEW); spray paint canisters; any gauge chain; balloons filled with biohazard or other noxious matter; torches, lanterns, or other devices that use fire or fuel; projectiles; or any other item or article that is generally considered a weapon or reasonably capable of being used as a weapon. Signs and flags must be held by hand and may not be affixed to any pole, stick or similar object.

(b) When possible and feasible, a warning shall be issued before enforcement of the provisions of this section, except that no warning shall be required in exigent circumstances. A warning will be sufficient if it is provided either verbally, by posted signage, or by amplified announcement.

(c) Authorized officers, employees, agents or representatives of the city shall be excepted from the provisions of this section when such officer, employee, agent or representative is engaged in the official business of the city.

(d) Any person violating the provisions of this section shall be guilty of a misdemeanor.

SECTION 3: The adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to Sections 15061(b)(2) and (b)(3) of the State CEQA Guidelines as an activity that has no potential for causing a significant effect to the environment.

SECTION 4: All ordinances and provisions of the Laguna Beach Municipal Code and sections thereof inconsistent herewith shall be hereby repealed to the extent of such inconsistency and no further.

SECTION 5: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such invalidity shall not affect the validity of this entire Ordinance or any of the remaining portions hereof. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, subdivision, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases be declared unconstitutional or otherwise invalid.
SECTION 6: The City Clerk of the City of Laguna Beach shall certify to the passage and adoption of this Ordinance and shall cause the same to be published in the manner required by law in the City of Laguna Beach. This Ordinance shall become effective immediately from and after the date of its adoption by a 4/5th vote of the City Council.

ADOPTED this 12th day of September, 2017.

__________________________________________
Toni Iserman, Mayor

ATTEST:

__________________________________________
City Clerk

I, Lisette Chel-Walker, City Clerk of the City of Laguna Beach, do hereby certify that the foregoing Ordinance No. ____ was introduced and adopted as an urgency measure at a regular meeting of the City Council on September 12, 2017 by the following vote:

AYES: COUNCILMEMBER(S):

NOES: COUNCILMEMBER(S):

ABSTAIN: COUNCILMEMBER(S):

ABSENT: COUNCILMEMBER(S):

__________________________________________
City Clerk, City of Laguna Beach, CA
Increase in violent confrontations in California

By Deepa Bharath, The Orange County Register
Tuesday, September 5, 2017

Violent and hostile confrontations statewide that resulted in crimes, arrests, significant property damage, cancellation of a scheduled event or injuries are on track to double in 2017 compared to 2016, according to a report released by the Center for the Study of Hate and Extremism at Cal State San Bernardino.

In California, there were 13 such incidents in all of 2016. But for 2017, by the end of August, there were 15 incidents. Last year, around the same time, there were seven.

This upward trend has been seen not just in Southern California, but statewide, said Brian Levin, the center’s director.

“This is significant because California is a bellwether state where the number of hate crimes have significantly increased year to year as have the number of hate incidents,” he said. “Also, with the beginning of the academic year, public universities are faced with the challenge of being able to guarantee first amendment rights on their campuses.”

The center’s report looks at a number of high-profile events around the Southland including the Make America Great Again rally in Huntington Beach in March when fights broke out on the sand in Bolsa Chica State Beach between Trump supporters and masked Antifa members who tried to block the march.

In April, students blockaded access to a campus event in protest of conservative commentator Heather Mac Donald, who is known for defending police against Black Lives Matter activists.

In June, Trump supporters and Antifa members clashed again in San Bernardino during an Anti-Sharia March near the site of a terrorist attack on Dec. 2, 2015 at the Inland Regional Regional Center.

Last month, four arrests including one assault were reported in Laguna Beach at the America First! Immigration Rally.

This data isn’t “predictive or diagnostic,” Levin said.

“We’re not just divided, but polarized because folks on different sides of the political spectrum are entrenched in their beliefs and feel fearful of the future,” he said. “We have seen an increase in political rallies in general. We’ve also seen an emboldening of the fringes and they are coming out in large numbers.”
Groups that perpetrate violence — be it white nationalists or the Antifa — are recruiting and mobilizing followers online, Levin said. But the activity is not limited to these two groups, he said.

“California is so big and diverse that our extremists are, too.”

March 25: Assaults with fists and use of pepper spray reported at the Make America Great Again rally in Huntington Beach resulted in four arrests all counter-protesters.

April 6: Students blocked entry to a speaking event by conservative commentator Heather Mac Donald at Claremont McKenna College in Claremont. Authorities refused to make arrests. However, the college suspended three students for a year and two others for a semester. Mac Donald spoke to a handful of observers and the college live-streamed the event.

May 30: Immigration protesters disrupted Lou Correa’s open house event in Santa Ana, which led to three assault arrests and disruption of a town hall meeting.

June 10: Three arrested at Act for America’s Anti-Sharia March in San Bernardino involving both Trump supporters and members of the Antifa who showed up to protest.

July 15: Two arrests and minor injuries after Trump supporters and protesters clashed in Hollywood.

Aug. 20: Four arrests including an assault at the America First! Immigration Rally at the Main Beach in Laguna Beach.


© 2017 Long Beach Press Telegram (http://www.presstelegram.com)
(U) OFFICER SAFETY INFORMATION

(U/FOUO) Improvised weapons found at lawful protests – During a recent lawful protest in Orange County, local law enforcement officers discovered various improvised weapons in the possession of protestors or concealed and placed in the vicinity of the protest.

(U/FOUO) Improvised weapons recovered from the protest included stabbing weapons similar to ice picks, stun guns, automotive parts, and padlocks on chains. Similar weapons have been recovered at protests throughout the country, and include tools, brass knuckles, knives, slingshots, bricks, and flares, among others.¹

(U/FOUO) Public safety personnel should remain alert to individuals possessing, concealing, or attempting to pre-stage weapons in or around protest or special event areas. Suspect packages or individuals carrying or concealing suspicious items should be immediately reported to local law enforcement or security officials.

(U) Suspicious Activity Reporting

(U/FOUO) Probationer with list of explosive precursors – On 12 August 2017, local law enforcement made contact with a subject in a vehicle. The subject, who was determined to be on probation, was detained and the vehicle searched. Officers discovered a knife and drugs, as well as a list of items, including suspicious materials.

- (U/FOUO) Sector affected: N/A
- (U/FOUO) Disposition: The incident has been forwarded to the FBI for follow-up.

(U/FOUO) Laser strike to law enforcement helicopter – On 21 August 2017, a local law enforcement helicopter was struck by a green laser multiple times while flying over Orange County. The flight crew stated the laser illuminated the entire cockpit, but operation of the aircraft was not impacted.

- (U/FOUO) Sectors affected: Aviation, Emergency Services
- (U/FOUO) Disposition: The flight crew directed ground personnel to the source of the laser strike, and the suspect was arrested.

(U/LES) NOTE: Tips, Leads, and SAREs may contain raw reporting and have not been fully evaluated, integrated with other information, or analyzed. The OCIAC recognizes individuals have constitutionally-protected rights to assemble, speak, and petition the government. The OCIAC safeguards these rights and only reports on First Amendment-protected activities for operational planning in the interest of ensuring the safety and security of the public and in accordance with the OCIAC mission statement.

This information should be considered UNCLASSIFIED // FOR OFFICIAL USE ONLY unless otherwise noted and contains information that may be exempt from public release under the Freedom of Information Act (5 USC 552). It is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with US Department of Homeland Security policies and is not to be released to the media, public or other personnel who do not have a valid “need-to-know” and shall not be distributed beyond the original addresses without prior authorization of the originator. Receipt acknowledges a commitment to comply with all applicable laws protecting privacy, civil rights, and civil liberties in the collection, use, analysis, retention, destruction, sharing and disclosure of information. If you have any questions or need additional information, please contact the OCIAC.

To report suspicious activity, submit a tip or lead at www.OCIAC.ca.gov or call 714-289-3949

UNCLASSIFIED // FOR OFFICIAL USE ONLY