



**Agenda Item C.1**  
**DISCUSSION/ACTION ITEM**  
**Meeting Date: July 1, 2008**

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**TO:** Mayor and Councilmembers

**FROM:** Dan Singer, City Manager

**CONTACT:** Vyto Adomaitis, Redevelopment, Neighborhood Services & Public Safety Director

**SUBJECT:** Correspondence regarding the Goleta Fireworks Festival at Girsh Park and response to U.S. Department of Fish & Wildlife.

**RECOMMENDATION:**

Authorize the Mayor to forward correspondence to Congresswoman Lois Capps regarding the U.S. Department of the Interior Fish and Wildlife Service's (USFWS) May 19, 2008 correspondence regarding the Goleta Fireworks Festival at Girsh Park.

**BACKGROUND:**

Each year, the Goleta Noontime Rotary sponsors the Goleta Fireworks Festival concluding with an Independence Day Celebration at Girsh Park. This event allows our community the safe enjoyment of a pyrotechnic show lasting roughly eighteen minutes, once a year.-Proceeds from ticket sales for this event are used to provide funding for various local non-profit organizations serving the community.

Since 2005, the City has implemented Ordinance 05-03 which regulates pyrotechnic events. This Ordinance limits these events to two times per year, New Year's Eve and the Fourth of July. Prior to the Ordinance adoption, pyrotechnic events frequently occurred throughout the year for weddings and special events, often times disturbing the peace of surrounding neighborhoods. Each year, City staff works collaboratively with the Goleta Noontime Rotary and our Sheriff's Dept. to minimize issues related to this event.

In March of 2007, the City received correspondence from the USFWS to address concerns about potential impacts to the Western Snowy Plover - a Federal Endangered Species - resulting from the discharge of pyrotechnics at Girsh Park. This correspondence was the result of concerns expressed by the Coal Oil Point Director, Cristina Sandoval, who also shared her concerns directly with the City. The original recommendation by the USFWS and Coal Oil Point was to have the 4<sup>th</sup> of July show relocated away from Girsh Park.

The City and the Rotary Club informed both parties that there were no other available sites for this event. UCSB's Harter Stadium, the site previously used to host this event was no longer available and in fact, was closer in proximity to the Plover areas.

Subsequently, through a collaborative work effort between the interested parties, in July 2007, the Rotary Club agreed to reduce the audio impacts of the show, and to fund a monitor to observe and report on any impacts of the pyrotechnics show on the Plovers. This was met with support from both the USFWS and Ms. Sandoval.

Despite a report from the 2007 Independence Day monitor demonstrating that little, if any, impacts on the Snowy Plovers were observed as a result of the July 4<sup>th</sup> firework display, on May 19, 2008 the USFWS again sent correspondence to the City requesting continued efforts to "further reduce the size, and associated concussion of the pyrotechnics that will be used during the 2008 fireworks display at Girsh Park."

While the City shares the sensitivity about reducing the impacts to the plovers, the issue has now approached a point where the City may have exhausted any mitigation of this event. The City has been informed by the Goleta Noontime Rotary that the pyrotechnic show is as short and quiet as it can be in order to also be financially viable and attractive to the community. It is important to keep in mind that in this case fundraising as well as the patriotic display requires a pyrotechnic show of appropriate scale.

#### **DISCUSSION:**

Since original correspondence from the USFWS was directed to City staff, staff is requesting direction from the City Council as to whether or not a corresponding letter can be sent under the Mayor's signature to Congresswoman Lois Capps to request their office intervene to ensure some reasonable balance can be reached between protecting the Snowy Plovers and ensuring the long-term viability of the Goleta Fireworks Festival at Girsh Park.

#### **FISCAL IMPACTS:**

Cancellation or discontinuation of the Goleta Fireworks Festival at Girsh Park could result in funding requests for assistance directed to the City by the various local non-profit groups who now receive funding from the Rotary. Staff is unable to quantify the fiscal impact at this time.

#### **ALTERNATIVES:**

The City Council may decide to have the USFWS correspondence sent out under staff signature or refrain from sending out any correspondence or may modify the draft letter presented to the Council at this time.

Submitted By:

Reviewed By:

Approved By:

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Vyto Adomaitis  
RDA, NS & Public Safety  
Director

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Michelle Greene  
Administrative Services  
Director

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Daniel Singer  
City Manager

**ATTACHMENTS:**

1. May 19, 2008 Correspondence from USFWS to the City of Goleta
2. Draft response to Congresswoman Lois Capps for the Mayor's signature

**ATTACHMENT 1**

**May 19, 2008 Correspondence from USFWS to the City of Goleta**



# United States Department of the Interior

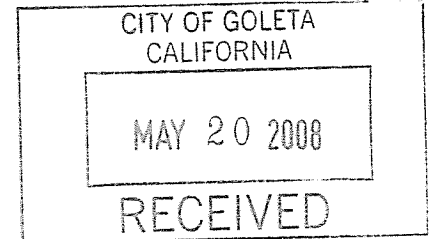
FISH AND WILDLIFE SERVICE  
Ventura Fish and Wildlife Office  
2493 Portola Road, Suite B  
Ventura, California 93003



IN REPLY REFER TO:  
2008-FA-0061

May 19, 2008

Steve Chase, Director  
Planning and Environmental Services Department  
City of Goleta  
130 Cremona Drive, Suite B  
Goleta, California 93117



Subject: Western Snowy Plover and California Least Tern Monitoring Report for the July 4, 2007, Fireworks Display at Girsh Park, Santa Barbara County, California

Dear Mr. Chase:

We have reviewed the subject monitoring report (report), received in our office, via electronic mail, on March 25, 2008. The report documents monitoring of the federally threatened western snowy plover (*Charadrius alexandrinus nivosus*) and the California least tern (*Sterna antillarum brownii*), a federally endangered and State fully protected species, during the July 4, 2007, fireworks display at City of Goleta's (City) Girsh Park. Monitoring was conducted at Sands Beach, Coal Oil Point Reserve.

The U.S. Fish and Wildlife Service's (Service) responsibilities include administering the Endangered Species Act of 1973, as amended (Act), including sections 7, 9, and 10. Section 9 of the Act prohibits the taking of any federally listed endangered or threatened species. Section 3(18) of the Act defines "take" to mean "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." Service regulations (50 CFR 17.3) define "harm" to include significant habitat modification or degradation which actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering. Harassment is defined by the Service as an intentional or negligent action that creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering. The Act provides for civil and criminal penalties for the unlawful taking of listed species. Exemptions to the prohibitions against take may be obtained through coordination with the Service in two ways: through interagency consultation for projects with Federal involvement pursuant to section 7 or through the issuance of an incidental take permit under section 10(a)(1)(B) of the Act.

We appreciate the willingness of both the City and the Rotary Club to work with us in an attempt to eliminate disturbance to western snowy plovers on Sands Beach documented during the July 4, 2005, firework display at Girsh Park (Sandoval 2005; Service 2007). During a meeting on

May 10, 2007, at the Goleta City Hall, the Rotary Club and the City agreed to reduce the size and concussion of certain pyrotechnics typically used during the fireworks display.

Despite this effort, the report indicates that adult western snowy plovers attending a group of three 1-day old chicks were "quite agitated and immediately flew away east when the fireworks display began." The report also states that "only one chick was observed during the fireworks display, and that adult western snowy plovers were seen coming and going from the brood area beginning 3 minutes after the fireworks display began". Although no disturbance of California least terns were documented, visibility was only sufficient for observers to monitor one California least tern nest. This data is insufficient to determine that there was no disturbance to California least terns.

No loss of nests or chicks of either species was documented; however, the disturbance of adult western snowy plovers and their chicks documented in the report meets the definition of harassment, as defined by the Service. Therefore, to avoid "take" of western snowy plovers and California least terns, and to aid in the recovery of these species, we recommend the Rotary Club and City further reduce the size, and associated concussion, of the pyrotechnics that will be used during the 2008 fireworks display at Girsh Park. We also recommend the Rotary Club provide a monitor during the event to attempt to document any adverse effects to western snowy plovers and California least terns.

We are available to work with the City, the Rotary Club, and other interested parties to provide an enjoyable experience for visitors while not presenting a risk to the western snowy plover and California least tern. As the California least tern is also a State fully protected Species, we recommend you contact the California Department of Fish and Game regarding this matter.

If you have any questions regarding this matter, please contact Steve Kirkland of our staff at (805) 644-1766, extension 267.

Sincerely,



Chris Dellith  
Senior Biologist

cc:

Vyto Adomaitis, City of Goleta

Daniel Singer, City of Goleta

Steve Wagner, City of Goleta

Cristina Sandoval, University of California Santa Barbara

Betty Courtney, California Department of Fish and Game

Nancy Frost, California Department of Fish and Game

## REFERENCES

- Sandoval, C. 2005. Final Report on the Western Snowy Plovers, Coal Oil Point Reserve, Santa Barbara, California.
- U.S. Fish and Wildlife Service. 2007. Comment letter regarding Western Snowy Plover mortality during the July 4, 2005, fireworks display at Girsh Park. Ventura, California.

**ATTACHMENT 2**

**Draft response to Congresswoman Lois Capps for the Mayor's signature**





June 24, 2008

The Honorable Lois Capps  
United States House of Representatives  
101 W. Anapamu Street  
Santa Barbara, CA 93101

**CITY COUNCIL**  
Michael T. Bennett  
*Mayor*

Roger S. Aceves  
*Mayor Pro Tempore*

Jean W. Blois  
*Councilmember*

Eric Onnen  
*Councilmember*

Jonny Wallis  
*Councilmember*

**CITY MANAGER**  
Daniel Singer

Dear Representative Capps:

Each year, our country celebrates our independence on the Fourth of July. Locally, the Goleta Noontime Rotary sponsors the Goleta Fireworks Festival at Girsh Park. This is an important community event that allows for the safe enjoyment of a pyrotechnic show lasting roughly eighteen minutes once a year. The proceeds from ticket sales for this event are used to provide funding for various local non-profit organizations serving the community. Overall, everyone agrees that this event is a great benefit to our community. Unfortunately, the U.S. Dept. of Fish and Wildlife (USFWS) does not seem to share this perspective. It is for this reason we are asking for your help.

Since 2005, the City has implemented Ordinance 05-03 which regulates pyrotechnic events. This Ordinance also limits these events to two times per year, New Year's Eve and the Fourth of July. Prior to the Ordinance adoption, pyrotechnic events frequently occurred throughout the year for weddings and special events, often times disturbing the peace of surrounding neighborhoods. Preserving the quality of our neighborhoods is a high priority of the City. Each year, we work collaboratively with the Goleta Noontime Rotary and the Santa Barbara County Sheriff's Department to minimize issues related to this event. We believe that no other community in Santa Barbara County has taken measures to restrict and regulate pyrotechnical displays.

In 2007, we were contacted by the USFWS to address concerns about potential impacts to the Western Snowy Plover resulting from the discharge of pyrotechnics at Girsh Park.

While we share the sensitivity about reducing the impacts to the Plovers, it is difficult to understand why the City is being asked by the USFWS to continue to reduce the pyrotechnic event when its duration is only 18 minutes when there are other impacts to the Snowy Plovers occurring the remaining 364 days of the year. It seems unfair and patriotically limiting.

Goleta's efforts and those of the Goleta Noontime Rotary have been more than sufficient to address concerns about impacts to the Snowy Plover population. As an example, since re-introduction of the Snowy Plover to our area some seven years ago, the population has continued to flourish and grow, despite the reality that firework displays have been going on for over twelve years in our community. Indeed, the City of Goleta has an excellent track record of protecting our environment, but we believe that a balanced approach is needed here.

For obvious reasons, we want this event to continue well into the future. The continued requests from the USFWS to impose more restrictions and reductions in the pyrotechnic show will turn this event into a distant memory, something that the City and our community does not want to see happen.

We would like to request your assistance in communicating to the USFWS that we have gone as far as we can go in mitigating the impacts of the Goleta Fireworks Festival at Girsh Park. We would also greatly appreciate your support for this event and for the tremendous benefit our community receives from it.

Thank you for your time and assistance on this matter.

Sincerely,

Michael T. Bennett  
Mayor

Attachments:

1. May 19, 2008 Correspondence from USFWS to the City of Goleta
2. Flyer for the Goleta Fireworks Festival at Girsh Park