

February 17, 2010

Dear Mayor Jenkins,

I was unable to attend yesterday's Council Workshop due to other commitments. I do have some comments and input regarding the issues discussed. I will restrict the comments in this email to the matter of fireworks. I have some knowledge of what was discussed but please correct any misconceptions and inaccuracies.

First and foremost, I do not want to see fireworks banned. This is not because I enjoy fireworks or endorse the behaviors that they foster; rather it is a nod to pragmatism. A prohibition on anything is a resource drain to be sure. But, if we are not going to ban fireworks then there needs to be a strategy on enforcing their legal use. The latter point is where the city historically fails.

Here is where it gets confusing and infuriating for the citizens. Please follow: Illegal fireworks are illegal in DuPont, Washington. Yet, enforcement of the prohibition on illegal fireworks is unenforced. In essence, illegal fireworks are banned.

The message to citizens is loud and clear: The city of DuPont *does not care* what you (the citizens) do on the Fourth of July holiday regarding fireworks.

Sound provocative? Then look further at the facts. There should be historical data that supports the number of brush fires around the summer holiday. There should be historical data available regarding the moisture levels around the summer holidays. There should be historical data around how many times that any DuPont mayor or council has exercised the discretion to restrict fireworks usage as a result of conditions. There should also be data from the Police Department on how many citations were issued for illegal fireworks usage during previous summer holidays.

Moreover, the initial city response to the July, 2009 fires was stated at the July 14, 2009 televised council meeting. At that meeting, the citizens were assured that there would be some sort of action both prior to the New Year holiday and at the January 2010 council workshop. Neither promise was fulfilled as described nor was an explanation published regarding the delay.

If you watch the archived video from that meeting a couple things will strike you. The first is the glibness of the report on the actual fires. Then fire chief Merritt seems more amused by the cause of the fire than concerned since he made no recommendation regarding enforcement. The second thing that strikes you is that the fire event was used as an opportunity to showcase mutual aid fire response with Lakewood. The mayor pointed out how the response was coordinated from atop and below the bluff; yet, no forceful message on the cause or conditions leading to the fires. Third, when asked about the historical aspect of fireworks usage Bill McDonald cited some failed action taken so long ago that the vast majority of citizens had yet to call DuPont home. Fourth, and last, were

the comments from Councilman Wilcox. Mr. Wilcox acknowledged that there was a problem with fireworks and that even someone in his neighborhood was firing off “the big cannons” while others discharged fireworks until 1:30 AM, a violation of the DMC. Based on Councilman Wilcox’s remarks I did not get the impression that he took action when faced with a violation of the law. No call to the police for enforcement was mentioned.

Nothing from the televised comments suggests a meaningful concern for the areas burned and the threat it poses to the well being of the citizens or their property.

It has be conveyed to me that one of the actions discussed at last night’s meeting suggested, once again, that the city will pursue the citizen education route. Even if you wanted to “educate” the citizens you still do not possess an effective means of communication. Communication in town is still broken and inefficient, and any solution implemented between now and the Fourth of July will be unproven, at best.

I will be blunt and say that relying on public education is lazy government. First, it implies guilt on all citizens for the actions of a few. Second, and more importantly, it allows the city to check off a box as an item complete yet with no measure of its effectiveness. Third, with the transient nature of our community any educational effort has to be done annually to offer guidance to new residents. Fourth, it cannot succeed without enforcement.

I think the city has confused a law with a social courtesy.

I understand the constraints placed on the police department regarding manpower, however, without enforcement the action can be filed under wishful thinking. Here is an example to ponder. We teach drivers to be safe and courteous on the road. Do we then stop patrolling the roads and issuing citations? At both ends of Center Drive we have a sign predominately posted, “educating” the drivers that the legal limit for blood alcohol levels is 0.08. Has this eliminated DWI citations in town? As we know, not all drunk drivers get caught; not all drunk drivers cause accidents or fatalities; but the actions of a few drunk drivers necessitate the need for the enforcement action to safeguard people and their property.

In order for any education effort to work there has to be enforcement. Throwing up your hands at the cost is not an acceptable solution. Additionally, the education effort needs to begin with the mayor, council, and staff since the current DMC is clear on what everyone’s role is in enforcing fireworks usage and conditions which would give the city authority to selectively ban their use.

The frustration for me is two fold. First, I live next to the area that burned last July. The smoke was such that we had to open all windows and aim all the fans outward to clear the house of smell of smoke. The area that burned behind Tract I park is protected land, as described by the 1994 Settlement Agreement (coincidentally, the same agreement now being discussed regarding the mine expansion).

Second, this issue has begged for a policy decision for years. Here is a quote taken from the July 10, 2007 (note the year) council meeting:

“Department Reports:

Council inquired about an update from the Fire Department on the July 4th event, banning fireworks, safe and sane fireworks, organizing a public display, providing an area for residents to light off fireworks, and an update on DuPont PowderWorks Park.”

This is also my second inquiry regarding the DMC and fireworks usage. The first request, in 2008, was acknowledged by then chief Merritt as being ambiguous. Here is the verbiage of the ordinance found on the city website (Highlights are my own):

“No person shall use or explode any fireworks within the city of DuPont *except from twelve noon on the second day of July to eleven p.m. on the fourth day of July* of any year; provided that the city Council sitting in regular or special session may, by motion, more severely restrict the time limit and place for, or completely ban the use of fireworks when the City Council finds that conditions warrant a more severe restriction; provided, that this prohibition shall not apply to duly authorized public displays where the same are authorized pursuant to the laws of the State of Washington, or the ordinances of the City of DuPont.”

This suggests that it is permissible to explode legal fireworks at 4AM on July 3rd. I was under the impression that this has since been altered to eliminate this oversight; however, I could not find the revision on the city website. My original emails to Chief Merritt available upon request.

It is time to roll up your collective sleeves and conceive a real solution for a problem discussed by citizens for several years. A solution that is fair to all citizens and with a result that is measureable. I have found council minutes dating back to 2006 regarding citizen concern on this issue; please take the time to search the city website and review it. Also, please review the council comments from the July 2009 televised meeting. You will see into the window of citizens’ frustration.

I welcome any of your responses; especially the councilpersons or staff that I seldom hear from in these email communications.

Regards,

--Michael Gorski

Cc: Bill McDonald, Dawn Masko, Greg Hull, Ron Goodpaster, Kathleen Trotter, Penny Coffey, Roger Westman, Larry Wilcox, Michael Grayum, John Ehrenreich, Jim Hills