

To: Brea City Council (Roy Moore, Marty Simonoff, Don Schweitzer, Ron Garcia, Brett Murdock)
From: Mike and Laurie Starkey
Re: Street-Sweeping Summary Data
Date: March 11, 2011

In preparation for next week's study session agenda item, we wanted to provide you with background information that is pertinent to your decision-making. Following is a listing of the various problems with the current street sweeping and the FACTS that go along with our claims. If you have any questions, or want any further information, please do not hesitate to ask. As always, we are more than willing to sit down with you to discuss the issues and the facts of street sweeping. And, if you feel we've incorrectly framed a position from the City Manager, please let us know as we want to be completely up-front and accurate.

First, here are the most significant things to consider in making changes to the enforcement program.

- **Why does the City Manager and Council think that Brea's residential streets are the dirtiest in all of Orange County?** According to the City Manager's information he provided to the council, Brea had already swept at four times the required rate prior to the parking restrictions. And, by sweeping both sides of every residential street every week with a parking restriction, Brea now has the strictest sweeping policy in all of Orange County (including all beach cities, high traffic and urban cities in all of Orange County).
- **If ticketing is to continue, the signage must be brought up to proper legal standards.** All signs that apply to more than one street must read "This Tract" and signs are needed at intersections and at regular intervals on long streets (see court opinion for details, and San Diego's interpretation of California Vehicle Code 22507.6 at the end of this document).
- **If ticketing is to continue, a reasonable place to park must be provided on street-sweeping day.** It doesn't matter if the window of time is six hours or six minutes, residents cannot be forced from their homes as they are now.
- **Many Brea homes, and even entire neighborhoods, were built with inadequate on-property parking.** When it comes to enforcement of ANY parking restriction on residential streets, please keep in mind that for many Brea residents, the street is the only driveway they have!

1) CLAIM: Weekly street sweeping is necessary AND citywide parking restrictions are necessary to comply with the NPDES and keep Brea's streets clean.

FACT: NPDES requires once a year street sweeping. The following is taken directly from the NPDES website.

Street Sweeping Schedule:

Designing and maintaining a street sweeping schedule can increase the efficiency of a program. A successful program will need to be flexible to accommodate climate conditions and areas of concern. Areas of concern should be based on traffic volume, land use, field observations of sediment and trash accumulation and proximity to surface waters (CASQA, 2003). Street sweeping in these areas may need to be increased and the schedule amended. **It is recommended that schedules include minimum street sweeping frequencies of at least once a year.** In cold climates prone to snowfall the Connecticut Department of Environmental Protection recommends that municipalities conduct street sweeping as soon as possible after the snow melts (McCarthy, 2005). Removal of the accumulated sand, grit, and debris from roads after the snow melts reduces the amount of pollutants entering surface waters.

To evaluate the effectiveness of a street sweeping program, municipalities should maintain accurate logs of the number of curb-miles swept and the amount of waste collected (CASQA, 2003). Monthly or yearly intakes (per ton) can be measured per district, road, season, or mile. This information can be used to

develop a written plan, schedule, and periodic re-evaluation for street sweeping that would target the following:

- those roadways with contributing land uses (high level of imperviousness, high level of industrial activity) that would be expected to show high pollutant concentrations and
- those roadways that have consistently accumulated proportionately greater amounts of materials (pounds per mile swept) between currently scheduled sweeps (Curtis, 2002).

Parking Policy: Established parking policies increases the effectiveness of a street sweeping program. Parking policies can be established as city ordinance and incorporate the following:

- **Institute a parking policy to restrict parking in problematic areas during periods of street sweeping.**
- Post permanent street sweeping signs in problematic areas; use temporary signs if installation of permanent signs is not possible.
- Develop and distribute flyers notifying residents of street sweeping schedules (CASQA, 2003).

LINK:

<http://cfpub.epa.gov/npdes/stormwater/menuofbmps/index.cfm?action=browse&Rbutton=detail&bmp=99&minmeasure=6>

FACT: From the Orange County Best Management Practices (BMP) document referenced by the City Manager, the OC BMP recommends sweeping once a month. Why is it that all of Brea's residential streets are considered a "problem area" and requires weekly street sweeping with the removal of ALL vehicles?

1. Sweeping & Cleaning

Sweeping Frequency and Timing

Management of Material Removed by Sweeping

- Maintain a consistent sweeping schedule. **Provide minimum monthly sweeping of streets.**

OPTIONAL:

- **Consider increasing sweeping frequency based on factors such as traffic volume, land use, field observations of sediment and trash accumulation, proximity to water courses, etc.**

LINK: <http://www.righttopark.com/Documents/OC%20Maintenance%20BMP.pdf>

COMMENT: From the NPDES and OC BMP websites, you can see that it is never required (or even recommended) that residential streets need to have both sides of every street swept every week. Neither do they require nor recommend that citywide residential sweeping occurs with no cars in the path of the sweeper. Brea has implemented the strictest possible policy for sweeping by not permitting alternate-side sweeping. There is absolutely no agency that requires weekly sweeping of BOTH sides of EVERY residential street with the removal of all vehicles to clear the path of the sweeper. **For no reason other than to generate revenue**, Brea has implemented a one-size-fits-all approach to enforcing streets to be cleared of vehicles on street sweeping day. Remember, if there is no debris on the curb, then it doesn't matter if a car is parked there when the street sweeper goes by. In fact, no analysis was ever done to determine the cleanliness (or lack thereof) of the residential streets, and we all know that no additional debris is being collected as a result of the parking restrictions. The decisions of the City Council should be based on fact rather than assumptions.

2) CLAIM: The City Manager claims that the current signage in Brea is legal.

FACT: A 2004 appellate court decision "**Homes vs. City of Santa Barbara**" had a common signage problem and the courts ruled against the city.

Homes on Wheels v. City of Santa Barbara (2004)

This appellate case was decided in 2004 and before the City of Brea ordinance. The City of Brea failed to do due diligence in not enacting an ordinance that has already been clarified in the courts.

The decision states: "... a motorist, unaware of the restrictions, could enter the City, park on a non-posted street and be cited. That is the **classic trap** for the unwary that the Legislature wanted to prevent. The signs do not state that the restrictions apply citywide. **A motorist could therefore read the sign and believe it applied only to the street where it had been posted.**"

COMMENT: The signage in question is known as a 'SPOT SIGN'. The signs in Brea say "No Parking" without including the words "this Tract" or "this Neighborhood" which is common verbiage on signs throughout the State of California and the country. A review of the appeals of the tickets that were issued shows that the **majority of tickets are being issued to visitors to Brea** who have no idea that there is a ticketing program in effect. Because the signs in Brea do not specify that the parking restriction applies to a "tract" or "neighborhood", then how could a visitor to Brea reasonably understand that a sign posted as simply "No Parking" applies to a street several blocks away from the posting of that sign? We've obtained a **legal opinion** that says that the statute (V C Section 22507.6) is being **interpreted unconstitutionally** by the City and that in order to comply with **due process** requirements the City needs to post signs at the intersection of all streets regarding the sweeping and the City should be responsible for reimbursing the people unfairly convicted.

There is a Brea resident just waiting to sue the city of Brea based on this current decision of Homes vs. Santa Barbara. I have another legal opinion which also concurs with this resident's findings regarding Brea's signage. He received a parking ticket and is appealing that ticket based on the city's failure to have a sign posted on the street the "No Parking" sign applied to and plans to appeal this ticket through the court system (at an expense to Brea to defend the issuing of the ticket). If the City of Brea loses this court case in the appellate court, other residents would also be able to request a refund from the City. I've had another attorney contact me with regards to a class-action suit against the city once the appellate court rules on this resident's ticket.

Have you noticed the signs posted in the beach communities that have a No Parking sign posted every block? That signage complies with the requirements. You'll also notice that nearly every city that does parking enforcement also does alternate-side sweeping.

3) CLAIM: Street sweeping is required by Best Management Practices and Brea is forced to comply.

FACT: According to the study done by the American Society of Civil Engineers ([Journal of Environmental Engineering](#), Vol. 135, No. 7, July 2009, pp. 479-489), "there is little quantitative evidence that street sweeping directly improves runoff water quality".

Data "confirms that street sweeping is generally scarcely effective as a practice for urban storm run-off quality control".

LINK: <http://www.ncbi.nlm.nih.gov/pubmed/18495993>

For mechanical and regenerative air sweepers which Brea uses (not vacuum sweepers), there are many sources that refute the argument regarding the City Manager's new claim of "fine metals" by stating that there is no factual basis for that claim. In fact, "the effect of street cleaning on abating runoff pollution seems limited."

If you read the City Manager's own reference for Contra Costa's analysis, you'll read the following in the references section regarding the effectiveness of street sweeping:

"Sweepers were found to be effective for removing particles above 500 µm, but very ineffective for finer particles. Because of their inability to pick up finer particles where most pollutants are found, using either mechanical broom or regenerative air sweepers were ineffective as a water quality BMP for reducing end-of-pipe urban runoff."

This is a fact that can be found in many different analyses done by many different, independent research agencies.

LINK:

<http://scitation.aip.org/getabs/servlet/GetabsServlet?prog=normal&id=JOEEDU000135000007000479000001&idtype=cvips&gifs=yes&ref=no>

4) CLAIM: The City Manager recently said that he read an article how street sweeping can reduce the amount of heavy metals.

FACT: This is true if Brea used a vacuum sweeper instead of the mechanical sweepers that are currently in use.

For mechanical sweepers, there are many articles that refute that argument by stating that there is no factual basis for that claim. In fact, "the effect of street cleaning on abating runoff pollution seems limited. An unexpected effect of street cleaning is that it induces sediment erosion inside the sewer during dry weather periods, thus reducing the stock of pollutants available for wet weather flow."

LINKS: http://www.sciencedirect.com/science?_ob=ArticleURL&_udi=B6VR2-41MJ21H-6&_user=10&_coverDate=03%2F31%2F2000&_rdoc=1&_fmt=high&_orig=search&_origin=search&_sort=d&_docanchor=&_view=c&_searchStrId=1611953867&_rerunOrigin=google&_acct=C000050221&_version=1&_urlVersion=0&_userid=10&md5=80e0decbe512477feb4b597a18fc80d9&searchtype=a

5) CLAIM: Ticketing residents will result in \$1.4 million annually to the General Fund.

FACT: From the July 2009 presentation to the City Council from Brea's City Manager: "It is estimated that approximately **48,000 violations** will occur annually, **yielding \$1.512 million in citation fine revenue**. The staff conservatively estimates that the revenues for the first fiscal year will be at least \$700,000. This estimate is based on less than a full year's enforcement."

Year One

Operational and Capital Costs (\$ 135,000)

Citation Fine Revenue \$1,512,000

Net General Fund Revenue \$1,377,000

Subsequent Years

Operational and Capital Costs (\$ 65,000)

Citation Fine Revenue \$1,512,000

Net General Fund Revenue \$1,447,000

Based on the most recent data, the street sweeping enforcement program has generated close to \$50,000 in the first year instead of the "conservatively estimated" \$700,000.

COMMENT: The city is not even close to raising \$1.4 million dollars annually. This year's budget was now projected at \$200,000. However, I would like to see a report on this amount and see if it is including all of the staff time to review the program and the ticketing appeals process.

On March 2, 2010 at the City Council meeting in response to residents during Matters from the Audience, the City Manager said **"I don't believe we ever suggested \$1.5 million as a revenue target for the street sweeping program."**

LINK: <http://www.righttopark.com/Documents/SSR%20-%20July%207%202009.pdf>

The City Manager states in the July 2009 document **"a program with codified exemptions (i.e. permits) will generate less revenue than a program with no standard exemptions."**

6) CLAIM: The City Manager reports that the following cities have an enforcement program: La Habra, Chino Hills, Placentia, Diamond Bar, Anaheim, Orange and Garden Grove.

FACT: Our immediately neighboring towns of Fullerton and Yorba Linda (our own City Manager's home town) complies with NPDES already (as Brea had) without a parking enforcement program.

Missing from the report is the fact that two of those cities sweep twice monthly, not weekly. Two are not even in Orange County. One of the cities allows exemptions. One city does alternating sides for 35 of its streets. One town exempts school zones. In Anaheim, they towed 45 student owned cars one day that were blocking the street sweeper one day, and in La Habra, parents were ticketed while attending a school's Easter egg hunt.

What's dishonest about the City Manager's study is that it failed to mention the policies in the cities immediately surrounding Brea. You would think this would be a better guide than Anaheim. The cities surrounding Brea:

Yorba Linda, no restrictions.

Fullerton, no restrictions.

La Habra Heights, no restrictions.

Whittier, each neighborhood votes.

La Habra, alternating sides on 35 streets.

The City Manager did model his recommendation on Placentia, but the landscape for Brea is so different that it's not a valid comparison. (He also failed to mention that Placentia's huge projection of \$1.4 million dollars per year in revenue was proven wrong as their program breaks even financially and their tickets are now \$48 each.)

7) Please see San Diego's website for an excellent example of how to properly develop, implement and communicate street-sweeping parking restrictions.

<http://www.sandiego.gov/thinkblue/pdf/sweeppilotfaq.pdf>

Q: Why are there new Street Sweeping signs on my block and/or marks in the street?

A There are new "No Parking" signs are related to the Street Sweeping Study. The City is mandated by law (California Vehicle Code 22507.6.) to display signs that indicate when street sweeping occurs, so that businesses and residents are aware of the activity. **The law requires that, at minimum, signs be placed at**

both ends of a City block, with one sign in the middle, for a total of three signs per block, per side. To place signs, Street Division uses a service called DigAlert for projects that could impact any water, sewer, phone or electrical lines. DigAlert indicates the location of underground lines by marking the street so that City crews can install the signs in safe locations, and avoid existing underground utility lines.

Q: Where am I supposed to park?

- A** Routes alternate each day on the opposite sides of the street. The best place to park is on the side of the street where the sweeping is not occurring, if parking is available. We apologize for this inconvenience, but it is a necessary aspect of the Study to sweep the debris and fine particles out of the gutters.

Q: When will the sweeper come down my street?

- A** The City has posted and will be posting new signs in each neighborhood indicating the new routes. Street sweeping only occurs during the week (not on weekends) in the mornings (generally from 2:00am-6:00am for commercial areas and generally 7:00am-11:00am for residential areas). Please be aware that it is the City's policy to avoid sweeping both sides of the street on the same day, due to the hardship it creates for parking. Therefore, the sweeper will sweep one side of the street on one day, and the other side on another day. Please refer to the posted signs for the new schedule on each street.

8) CLAIM: The City Manager claims that alternate-side sweeping would be too administratively cumbersome.

FACT: Nearly every city that has parking enforcement does alternate-side sweeping.

9) CLAIM: The City Manager claims in his 6-month review that the "Maintenance Services reports that the streets of Brea are being swept more effectively and the debris collected has increased from 1.5 to about 2 cubic yards per week since the start of the program."

FACT: No data to support this claim at all. After constant pressuring to view the data to back up this claim at a city council meeting, the City Manager finally admitted (nearly a year later) that there was no data to support this claim. He claimed that there was no data collected prior to the implementation of the ordinance so there is no data to compare.

We contacted the Brea Public Works Department to see what data was available. We were handed an 8x10 photo of a pile of trash collected by a street sweeper and were told that the pile is 30% larger than it was prior to the enforcement program. This is the "data" the City Manager presented to the city council.

Upon further pressuring for collected data, we were given the following data which shows that the amount of debris collected has not increased once the enforcement program began.

LINKS: <http://www.righttopark.com/Documents/SixMonthUpdate-Debris.pdf>

<http://www.righttopark.com/SweepData.html>

10) FACT: Residents already pay a monthly fee to cover street sweeping costs.

The only purpose of ticketing was to generate more revenue, not to cover the sweeping costs. Under the last review, the tickets that have been issued may not even cover the costs for the administrative costs of ticketing and appeals and the ticketing agents and vehicles themselves. How much longer will it run before the cost of the fines have to be increased to cover the costs of ticketing? In the original report, staff gives a few options for street sweeping and it says "a program with exemptions will not generate revenue as one without". This sums up the entire program. Follow the money!

11) CLAIM: The City Manager continues to claim that Brea residents have "embraced this program" and on June 15, 2010 at the city council meeting claimed, "And let me again reiterate, and our data, and you will get more of this at the study session, suggests very, very high compliance rate and a very, very small number of people who, even when cited and appealed the cite, mentioned no place to park as a rational. There is literally, I can count them on a couple of hands."

FACT: Review the appeals that were collected from residents contesting their tickets. Does this suggest residents are "embracing this program"? **Compliance does not mean acceptance!**

12) FACT: The addition of two enforcement vehicles following the street sweeper for over 15,000 miles per year to issue tickets adds an additional 9+ TONS of CO2 into our air and tons of additional pollution. This is reason alone to abandon the enforcement program. We've gathered information from the EPA and found that we are adding more pollution to the atmosphere with weekly street sweeping followed by enforcement vehicles than we are cleaning.

LINKS: <http://www.righttopark.com/carbonfootprint.html>

13) CLAIM: The City Manager claims that the program was not presented as a "revenue enhancement".

FACT: City staff presented this same ordinance under the title of "revenue enhancement" in July 2008 and it was rejected. In July 2009, the same report was presented as a need to comply with NPDES. That July 2009 report has no information regarding the projections for the additional amount of debris the city projected to collect. Instead, the entire report was based around the amount of money it projected to generate.

When the city council asked the City Manager to present an exemption program, it took months for the City Manager to return with his opinion that an exemption policy was not needed. The city council forced him to present a policy regardless of his opinion. The City Manager returned with a program that would cost the resident \$100 per vehicle per year to apply for an exemption.

If the program is mandated by the NPDES, then there should be no exemptions. With the sweeping program, the City Manager claims that Brea must comply with the NPDES requirements, but if you pay \$100/vehicle Brea will let you park on the street. Either there is a mandated requirement or there isn't (there isn't!).

14) FACT: Residents without adequate parking are already forced to pay \$20 per vehicle per year to park on the street. You would think that residents that already pay for that pass would have it automatically work as an

exemption on street sweeping day as well. If we have a problem parking on the street at night, we would also have a problem parking during the day. All you need is an extra check-box on the overnight parking permit application to apply for a street-sweeping exemption.

15) FACT: The City of Brea allowed the construction of neighborhoods with short to non-existent driveways or garages knowing that on-street parking was available. Residents on Ash Street are able to park on the street at night if they purchase an overnight parking pass. However, on street sweeping day, they have to move their car into the downtown parking structure since no parking is available at their residence.

Residents who have small to nonexistent driveways (Ash Street Cottages, the hills, cul-de-sacs) and those with multiple drivers have no place to park on street sweeping day. These hardships disproportionately affect families, stay-at-home parents, the self-employed and retirees.

16) FACT: When we contacted Mayor Beauman regarding our short driveway we were told to park in the downtown parking structure after first calling the Brea Police watch commander and providing our license plate information and then walk home with our family (with small children of 4 and 6 years old) and we should consider it our weekly exercise. The current parking restrictions are inexcusably out of touch with the needs of Brea residents and inflict intolerable hardships.

17) CLAIM: The enforcement is being done according the spirit of the law, not the letter of the law.

FACT: If you review the appeals letters from the residents that have received tickets, you will have to agree that there isn't a spirit of the law. People getting tickets include those residents with handicap placards, teachers, school volunteers, construction trucks, AT&T service vehicles, a person delivering meals on wheels, etc. The majority of tickets are written to visitors to Brea who are completely unaware of a parking enforcement since there is not a sign posted directly on the streets.

I've also spoken with an attorney who questions this policy of "spirit of the law". Since it is written as "No Parking 8 am – 2 pm", there is no reason why the police cannot enforce it to the letter of the law if they wanted to. If a new police chief or city council steps in and wants to start enforcing it to the letter of the law, there is nothing preventing this from happening. This is a dangerous precedent being set by the City Manager and Police Department to choose "how" to enforce a law.

18) The "spirit of the law" isn't written. The "letter of the law" is what is enforceable.

Different police leadership or a change in the current council can change how the law is enforced. In Santa Ana, the police are no longer enforcing the "spirit of the law" and are now enforcing "letter of the law". Even if the sweeper passes by, the signs still read "No Parking" and residents can legally be issued tickets for a parking violation. What's to say another council, looking for revenue enhancement, decides to enforce this ordinance to the "letter of the law"? Here is an article from the OC Register regarding Santa Ana's policy.

Tom told Honk he has been cited about 15 times for this violation outside his auto-repair shop in Santa Ana.

Well, Tom, Honk has heard about cities that don't cite after the sweeper comes by - but as you have discovered, Santa Ana isn't one of them.

Cmdr. Baltazar De La Riva of the Santa Ana Police Department says the law does indeed allow citations to be issued during the entire limit expressed by the posted signs.

"There are certain areas of the city where the street sweeper has to be back twice even three times," the commander says. "People have to realize -it's to benefit the community."

Also, residents call the city to say they got a ticket, and their neighbor just parked his car on the street after the sweeper went by! A citation-wielding official is dispatched to the scene.

Who knows if the officer was being vindictive because you park 15 or so cars on the streets or was worried about the sweeper? But it is clear - fair or not, **the written law doesn't care.**

<http://www.ocregister.com/news/sweeper-196626-honk-santa.html>

19) CLAIM: From the July 2009 report, a parking enforcement program is needed because the current method is not achieving the desired results.

FACT: When Brea wanted to start a water preservation program, they simply asked the residents to help, resulting in a decrease of over 10% of water usage. The city did not first implement a program to fine residents using too much water. Simply asking the residents to comply produced positive results. Why not just ask residents to help with street sweeping by removing their cars first? Since this was a revenue-generating resolution, the first action was to enact an extreme program to ticket as many residents as possible. Voluntary parking restrictions work in Fullerton and Yorba Linda, where no cars are ticketed on street-sweeping day.

20) CLAIM: The City Manager said that there will be no parking tickets issued at the Plunge during the summer swim lessons, (yet the city staff has no idea of this policy).

FACT: When we asked the swim lessons coordinator about this, they had no idea that ticketing would affect the streets surrounding the Plunge. When we contacted the Police Department and asked if ticketing would take place, we were told that the street sweeper usually comes to the Brea Plunge (which requires almost entirely on-street parking), on Tuesday sometime between 8 am and 2 pm. When told about swim lessons, the parking enforcement officer suggested that parents "**not take swim lessons on Tuesdays to avoid ticketing.**" As parents bringing kids to swim lessons know, the lessons are five days a week, Monday - Friday.

These are the types of issues that Brea residents have to contend with on a daily basis. Access to schools, parks and public places that require on-street parking are severely restricted by this ordinance.

21) CLAIM: The City Manager claims that complying with the street sweeper only takes about 10 minutes a week to drive around behind the street sweeper when you hear it coming.

FACT: There are many residents who have received tickets trying to deal with suggested 10 minute window every week. Please read the appeals letters from residents who received work-related telephone calls and were unable to move their cars, residents in the bathroom, etc. To suggest this is just a 10 minute a week issue, is insulting. The City Council majority's insistence that we should just listen for the street sweeper and rush outside to move our cars in time is NOT a real solution.

The neighbor at end of our street got a ticket last week. The entire end of our cul-de-sac street was blocked off for tree trimming. Our neighbor couldn't even park close to her own property and had to park on the street and walk to her house. When the street sweeper came by, it too could not go down our street, so it skipped our street. However, the ticketing agent drove down our street to ticket their car. How is this a fair policy?

22) FACT: Only 1,400 signatures are required to have the issue put on the ballot for residents to vote on this policy. Seeing how we had a line of angry residents at the swim lessons and sports signups, the July 4th Fair and our website requesting to sign our petition, gathering the required signatures would be easy. However, there is a significant cost to the city of Brea to validate the signatures and then have the item included on the actual ballot. The city could save a significant amount of money (not including an impending lawsuit for the signage) by addressing the ordinance on its own terms.

23) CLAIM: The City Manager claims that only the residents that are lazy will be ticketed.

FACT: Brea residents with limited parking on their property will have problems selling their homes. Many Brea neighborhoods have severely restricted parking situations. These developments were approved by the City, and residents purchased these properties knowing they had the right to park on the street. **The right to park on the street has been revoked** by this resolution. This serious problem will have to be disclosed when residents attempt to sell their homes, rendering many properties unacceptable to certain buyers (especially families).

We have a friend who is a realtor. While showing a Brea home to a potential buyer, the realtor and buyer parked on the street (as they are supposed to do as a courtesy to the seller by not parking in their driveway). While showing the home, the street sweeper passed by and both cars were ticketed.

24) FACT: Residents' vehicles are put at risk when parked in public lots. Since ALL street parking is prohibited throughout several adjacent neighborhoods on street-sweeping day, residents are forced to move their cars to various public lots and parking garages (up to a mile away from their homes) to avoid ticketing. This resolution not only denies these residents access to their personal property on street-sweeping day, but it puts their vehicles at risk of vandalism and theft since they are left unattended every week.

Residents in our neighborhood have been parking in the Fanning Elementary School parking lot overnight to avoid ticketing. This has limited the amount of parking for teachers and volunteers on street sweeping day. Recently, a truck parked in the lot overnight was vandalized.

25) CLAIM: The City Manager claims that street sweeping is keeping our watershed clear of debris.

FACT: The Inner City Coastal Cleanup Day in Brea on September 25, 2010 cleaned up an estimated 2,800 pounds of debris in the watershed. Last year, the Coastal Cleanup Day cleaned an estimated 1,800 pounds of debris in the watershed. If street sweeping was supposed to keep the debris from getting into the watershed, why did we collect MORE debris than we did last year? From the **DATA**, not from staff reports, our street sweepers are not collecting a significantly more amount of debris from the streets and our watershed still has the same amount of debris as it has all these years.

26) CLAIM: The ticketing appeals process is not arbitrary. The City Manager had the Police Chief speak about the appeals process and how it is done fairly.

FACT: Here's an example of two appeals letters written for the exact same offense. One of the tickets was excused, the other one wasn't. This is the definition of arbitrary.

Appeal #1 -- "#1, There were not signs posted as required in CVC 22507.6 or any other indication to me that I had parked in violation of any code, rule or law. #2, Note being a resident or even a regular visitor to the neighbors, I am not and would have no reason to be aware of any unwritten rules."

Appeal #2 -- "I am not a resident therefore I had no idea that no parking was allow[ed] at that time and day, there are no signs stating 'no parking' on a certain day and time anywhere on that specific street, so how would anyone that is not a resident know not to park on a certain day?"

(Appeal #1 was denied and Appeal #2 was granted. Why?)

27) Just sweep residential streets twice a month instead of weekly. Simple! When we asked the Public Works Director why Brea sweeps weekly there was no answer. It came back to that Brea has always swept weekly and that they would look into reducing the frequency to cut costs. There are only two options with budgeting: either you have to cut costs or raise more revenue. Placentia found that their ticketing policy barely breaks even and their tickets are now \$48. If the city had done its research prior to implementing the policy, they would have found that Placentia's program breaks even.

28) Where are the City Council's priorities? A resident recently told me that the school board was told that in order to cut more costs, classrooms are to be vacuumed less often and we're all going to have to deal with a little more trash in our classrooms. However, we still have to sweep our residential streets both sides every week?!

Following is a copy of the recent Q/A correspondence with the City Manager.

Q - Could the City Manager please produce written evidence that mandates sweeping residential streets on a weekly basis?

=====

A – Street sweeping is not required once a week. What is required by the state regional water quality control board is that the City develop a set of Best Management Practices (BMP’s) to address the requirement that we remove debris from entering the storm drain system.

>> **REPLY:** NPDES requires once a year street sweeping. The following is taken directly from the NPDES website.

Street Sweeping Schedule:

Designing and maintaining a street sweeping schedule can increase the efficiency of a program. A successful program will need to be flexible to accommodate climate conditions and areas of concern. Areas of concern should be based on traffic volume, land use, field observations of sediment and trash accumulation and proximity to surface waters (CASQA, 2003). Street sweeping in these areas may need to be increased and the schedule amended. **It is recommended that schedules include minimum street sweeping frequencies of at least once a year.** In cold climates prone to snowfall the Connecticut Department of Environmental Protection recommends that municipalities conduct street sweeping as soon as possible after the snow melts (McCarthy, 2005). Removal of the accumulated sand, grit, and debris from roads after the snow melts reduces the amount of pollutants entering surface waters.

To evaluate the effectiveness of a street sweeping program, municipalities should maintain accurate logs of the number of curb-miles swept and the amount of waste collected (CASQA, 2003). Monthly or yearly intakes (per ton) can be measured per district, road, season, or mile. This information can be used to develop a written plan, schedule, and periodic re-evaluation for street sweeping that would target the following:

- those roadways with contributing land uses (high level of imperviousness, high level of industrial activity) that would be expected to show high pollutant concentrations and
- those roadways that have consistently accumulated proportionately greater amounts of materials (pounds per mile swept) between currently scheduled sweeps (Curtis, 2002).

Parking Policy: Established parking policies increases the effectiveness of a street sweeping program. Parking policies can be established as city ordinance and incorporate the following:

- **Institute a parking policy to restrict parking in problematic areas during periods of street sweeping.**
- Post permanent street sweeping signs in problematic areas; use temporary signs if installation of permanent signs is not possible.
- Develop and distribute flyers notifying residents of street sweeping schedules (CASQA, 2003).

<http://cfpub.epa.gov/npdes/stormwater/menuofbmps/index.cfm?action=browse&Rbutton=detail&bmp=99&minmeasure=6>

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In Brea (as well as in many other cities around the state), weekly sweeping has been long recognized as a cost-effective Best Management and it has been found to be one of the most effective ways of removing debris from entering the storm drain system.

>> **REPLY:** From the Orange County Best Management Practices (BMP) document referenced by the City Manager, the OC BMP recommends sweeping once a month. Why is it that all of Brea’s residential streets are considered a “problem area” and requires weekly street sweeping with the removal of ALL vehicles?

1. Sweeping & Cleaning

Sweeping Frequency and Timing

Management of Material Removed by Sweeping

- Maintain a consistent sweeping schedule. **Provide minimum monthly sweeping of streets.**

OPTIONAL:

- Consider increasing sweeping frequency based on factors such as traffic volume, land use, field observations of sediment and trash accumulation, proximity to water courses, etc.**

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More than the obvious litter and trash is removed from the streets during sweeping operations. Less obvious noxious materials removed include polychlorinated biphenyl (PCBs), mercury, copper, nickel, and polybrominated diphenyl ethers (PBDEs). Many studies have been done by other agencies to prove this point. Examples of studies include Contra Costa County at: <http://www.cccleanwater.org/pdfs/StreetSweepingReportFinal.pdf> and the City of San Diego at: <http://www.sandiego.gov/thinkblue/pdf/streetsweeppilotfinalreport.pdf>.

These comprehensive studies show the benefit and need for an effective street sweeping program.

>> **REPLY:** According to the study done by the American Society of Civil Engineers (*Journal of Environmental Engineering*, Vol. 135, No. 7, July 2009, pp. 479-489), **“there is little quantitative evidence that street sweeping directly improves runoff water quality”**.

Data **“confirms that street sweeping is generally scarcely effective as a practice for urban storm run-off quality control”**.

For mechanical and regenerative air sweepers which Brea uses (not vacuum sweepers), there are many sources that refute the argument regarding the City Manager’s new claim of “fine metals” by stating that there is no factual basis for that claim. In fact, “the effect of street cleaning on abating runoff pollution seems limited.”

If you read the City Manager’s own reference for Contra Costa’s analysis, you’ll read the following in the references section regarding the effectiveness of street sweeping:

“Sweepers were found to be effective for removing particles above 500 µm, but very ineffective for finer particles. Because of their inability to pick up finer particles where most pollutants are found, using either mechanical broom or regenerative air sweepers were ineffective as a water quality BMP for reducing end-of-pipe urban runoff.”

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The City of Brea does not have the funds or resources to fund such studies, but firmly believes in being proactive and not reactive to meeting standards.

>> **REPLY:** Brea had already swept at FOUR times the rate required by any agency PRIOR to the parking enforcement ordinance. Creating solutions for non-existent problems is not being “proactive.”

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Q - Could the City Manager please provide documentation for ANY requirement that streets must be free of cars during sweeping?

A –As above, parking restrictions are determined at the local level. As common sense would dictate, and as confirmed by field observations, a sweeper can sweep the gutter line better if there are no vehicles parked in its path ensuring each resident is provided the best service possible, and that the goals of the program are met effectively.

>> **REPLY:** Common sense would dictate that if there is no debris on the curb, then it doesn’t matter if a car is parked there when the street sweeper goes by. In fact, no analysis was ever done to determine the cleanliness (or lack thereof) of the residential streets, and we all know that no additional debris is being collected as a result of the parking restrictions. The decisions of the City Council should be based on fact rather than assumptions.

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Q- Could the City Manager please explain to us how it was determined that the ENTIRE CITY of Brea was a “problematic area” (to justify implementation of parking restrictions on street-sweeping day as suggested by the NPDES)?

A – The entire city is swept as a Best Management Practice (as outlined in Question 1), to provide the best level of service to businesses and residents of the city. Sweeping all streets is the most effective and efficient way of meeting the goals of the program and minimizes confusion on when the streets are swept.

>> **REPLY:** Parking restrictions should be determined according to the identification of problem areas. This was never done. In an effort to minimize confusion, you have instituted a Draconian policy that is simple for the CITY but a tremendous burden for the residents. Doesn’t seem like a reasonable trade-off.

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Q - Most of the cities surrounding Brea sweep residential streets only twice a month. Can the city council please tell us all why Brea is not doing that?

A - Surrounding cities that do sweep weekly include the City of Fullerton, the City of La Habra, and the City of Diamond Bar.

>> **REPLY:** Fullerton does not have parking enforcement and they comply with the NPDES and OC BMP as did Brea PRIOR to the parking restriction. La Habra does alternating sides for 35 of its residential streets. Whittier and West Covina has residents vote on their particular tract. Yorba Linda has no parking enforcement.

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Surrounding cities that sweep twice a month include the City of Placentia, the City of Yorba Linda, and the City of Chino Hills. Of the 34 cities in Orange County, 15 cities sweep weekly, and 12 of them sweep twice a month (seven had no information easily available). Eighteen of the cities have parking enforcement.

>> **REPLY:** Of these cities, the **MAJORITY** do alternating side sweeping. Of the 34 Orange County cities, Brea has determined that its residential streets are in the top 50% of dirtiest streets and therefore need weekly sweeping with parking enforcement. According the Charlie View, the only reason why Brea sweeps every week is because that's the way it has always been done, and the City Council has never instructed him to consider a different sweeping schedule. Sweeping weekly with the removal of all vehicles means Brea will sweep its residential streets more than any other city in Orange County and twice as much as any Orange County beach community with high traffic and pollution. Is this really necessary?

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Q - Could the City Attorney please explain why this ruling (2004 case of Homes on Wheels v. City of Santa Barbara; <http://caselaw.findlaw.com/ca-court-of-appeal/1010236.html>) does not apply to Brea's signs, since not only are they nearly impossible to find, but NONE of them say "no parking this tract"?

A – See California Vehicle Code: > CVC 22507.6. Local authorities may, by ordinance or resolution, prohibit or restrict the parking or standing of vehicles on designated streets or highways, or portions thereof, for the purpose of street sweeping. No ordinance or resolution relating to the parking or standing of commercial vehicles in a residential district shall be effective with respect to any commercial vehicle making pickups or deliveries of goods, wares, or merchandise from or to any building or structure located on the restricted street or highway, or for the purpose of delivering materials to be used in the repair, alteration, remodeling, or reconstruction of any building or structure for which a building permit has previously been obtained. No such ordinance or resolution shall be effective until the street or highway, or portion thereof, has been sign-posted in accordance with the uniform standards and specifications of the Department of Transportation, or local authorities have caused to be posted in a conspicuous place at each entrance to the street a notice not less than 17 inches by 22 inches in size, with lettering not less than one inch in height, setting forth the day or days and hours parking is prohibited. As used in this section, "entrance" means the intersection of any street or streets comprising an area of restricted parking for street-sweeping purposes on the same day or days and hours with another street or highway not subject to such a parking restriction, or subject to parking restrictions on different days and hours.

>> **REPLY:** The size of the signs are not what is being questioned, and no reference was made to the lawsuit we cited. A review of the appeals of the tickets that were issued shows that the **majority of tickets are being issued to visitors to Brea** who have no idea that there is a ticketing program in effect. Because the signs in Brea do not specify that the parking restriction applies to a "tract" or "neighborhood", then how could a visitor to Brea reasonably understand that a sign posted as simply "No Parking" applies to a street several blocks away from the posting of that sign? We've obtained a **legal opinion** that says that the statute (V C Section 22507.6) is being **interpreted unconstitutionally** by the City and that in order to comply with **due process** requirements the City needs to post signs at the intersection of all streets regarding the sweeping and the City should be responsible for reimbursing the people unfairly convicted. Here is the court decision regarding Homes on Wheels vs City of Santa Barbara and the ruling that the city's sign were a "classic trap" which used the same "spot signs" with incorrect verbiage (Brea's signs do not state "entire tract").

A 2004 appellate court decision "**Homes vs. City of Santa Barbara**" had a common signage problem and the courts ruled against the city.

Homes on Wheels v. City of Santa Barbara (2004)

This appellate case was decided in 2004 and before the City of Brea ordinance. The City of Brea failed to do due diligence in not enacting an ordinance that has already been clarified in the courts.

The decision states: "... a motorist, unaware of the restrictions, could enter the City, park on a non-posted street and be cited. That is the classic trap for the unwary that the Legislature wanted to prevent. The signs do not state that the restrictions apply citywide. **A motorist could therefore read the sign and believe it applied only to the street where it had been posted.**"

I guess we can wait until the city is sued (and it will be) and Tim and the City of Brea can defend their position in court.

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Q - If there is no debris to be collected from the curb, then I am not preventing the street sweeper from doing its job, so what exactly is my crime?!

A – As outlined in the answer to Question 1, some debris collected to prevent its discharge into the storm drain system is quite small and may not be easily visible. Also, violating the vehicle code section used by the City to prohibit parking on street sweeping days (CVC 22507.6), constitutes a violation of the local ordinance establishing such parking.

>> **REPLY:** Since Brea uses mechanical/regenerative air street sweepers (not vacuum), those small particles are still in the street after the street sweeper passes. As we've said all along, we're not against street sweeping. We're against the need for removing all vehicles from Brea's RESIDENTIAL streets for a 6 hour time period every week...with no alternate place to park your car at that time. There are so many other solutions to making sure all curbs are clean instead of a one-size-fits-all solution. Unless the policy was put in place as a "revenue enhancement", then the Council must seek better solutions that are less onerous to residents.