



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Darryl Von Raesfeld

SUBJECT: SEE BELOW

DATE: August 20, 2007

Approved

Date

8/20/07

COUNCIL DISTRICT: City-Wide

SUBJECT: RESPONSE TO CIVIL GRAND JURY REPORT ENTITLED "RECORD KEEPING IN DISARRAY AT SAN JOSE BUREAU OF FIRE PREVENTION"

RECOMMENDATION

Approve response to the 2006-2007 Santa Clara County Civil Grand Jury's report entitled "Record Keeping in Disarray at San Jose Bureau of Fire Prevention."

OUTCOME

Approval of this report will satisfy the requirements of Penal Code Section 933(c), which requires the City Council to respond to Civil Grand Jury reports no later than 90 days after the Grand Jury submits its final report to the presiding judge of the Superior Court. A formal response from the City is due to the Grand Jury by September 15, 2007.

EXECUTIVE SUMMARY

The Santa Clara County Civil Grand Jury issued a report in June 2007, examining how well the San Jose Fire Department had done in complying with recommendations in the November 2003 Audit of the Fire Prevention Bureau.

The Grand Jury made four findings and four recommendations. In general, the Grand Jury found that the SJFD had not complied fully with the Auditor's recommendations, that it had not completed a Business Plan, that there was no methodology to prioritize fire safety inspections, and that the Fire Prevention Bureau lacked a data management and retrieval system. City staff disagrees fully or partially with all four of the Findings. The Grand Jury's four recommendations

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can be characterized as direction to complete the work required to comply with the Auditor's recommendations. In general, City staff intends to comply with three of the four recommendations at some point in the future, but that the fourth recommendation is not warranted.

From November 2003 to present, the Fire Department has worked diligently to implement the Audit recommendations. To date, the Auditor's Office has signed off on 11 of the 16 recommendations. The Department reports bi-annually on the status and progress of the remaining five recommendations.

BACKGROUND

On June 15, 2007 the Santa Clara County Civil Grand Jury provided the City with its final report, including findings and recommendations, entitled "Record Keeping in Disarray at San Jose Bureau of Fire Prevention." According to the Report, the purpose of the Grand Jury's inquiry was "to examine the Bureau of Fire Prevention's responses to the City of San Jose Auditor's (Auditor) 2003 Report, and update the information gathered from the original report."

The Bureau of Fire Prevention (BFP) is divided into two Divisions. The Regulatory Code Enforcement Division deals primarily with Fire Code regulations regarding occupancy and use. The Development Services Division deals primarily with Fire Code regulations regarding construction. Under the annual inspection program, Fire and/or Hazardous Materials Permits are issued to facilities that have a high degree of hazard because of construction or use, and include activities such as welding, woodworking, spray painting, automobile repair, hazardous materials storage, and semi-conductor fabrication.

The Fire Department also conducts annual inspections of a variety of different "occupancies," which are defined by their primary use, as required by State law. For example, schools are "E" occupancies (for Educational), and residences are "R" occupancies. The State requires annual inspections of all E-1, R-1, and High Rise occupancies, and any facility that has an Underground Storage Tank (UST), plus one-third of any facilities required by law to submit a "long form" Hazardous Materials Business Plan. All of the High Rise, UST, and "long form" occupancies are issued Fire Permits, while some of the E-1 and R-1 occupancies are issued Fire Permits.

In November 2003, the San Jose Office of the City Auditor issued Report 03-10, "An Audit of the San Jose Fire Department's Bureau of Fire Prevention." The audit focused on the Regulatory Code Enforcement Division, and identified a number of weaknesses in areas related to the annual fire inspection and Fire Permit program. The audit made three Findings and 16 Recommendations (see attachment).

ANALYSIS

The City's response to the Grand Jury Report will be detailed below, but there is a need to address separately the title of the report. Both the City and the Fire Department place a high

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value on data-driven decisions, requiring accurate data collection and timely data processing and analysis. Very early in the process of meeting with the Grand Jury, the BFP acknowledged the challenges it faces in data management due to outdated software, and informed the Grand Jury that the City has been working for four years to overcome those challenges. Currently there is no real-time data retrieval ability, but that does not equate to "disarray" in record keeping. Accurate data exists, but the data retrieval process today is inefficient, requiring manual data recovery and multiple electronic conversions to make it usable.

From November 2003 to present, the Fire Department has worked diligently to implement the Audit recommendations. To date, the Auditor's Office has signed off on 11 of the 16 recommendations. The Department reports bi-annually on the status and progress of the remaining five recommendations.

One outcome of this process was direction that grew out of the Mayor's Budget Message of March 2005, for the Department to develop a Fire Prevention Business Plan. The goal of the Business Plan is to identify a level of service delivery for fire prevention services, and identify steps to fully implement the Auditor's recommendations. By Spring 2006, the Fire Department realized the need for specialized consultant services to assist the Department in completing such a Plan. Currently the Fire Department is working with the Finance Department to finalize selection of a consultant for the Business Plan. The Fire Department's goal is to have a Business Plan ready for Council approval by the end of this calendar year.

Response to Recommendations and Findings

Below are the staff responses to the four findings and four recommendations listed in the 2006-2007 Santa Clara County Civil Grand Jury's Final Report for Council review and approval.

F1 The Evidence, written and oral, provided to the Grand Jury by the Bureau of Fire Prevention demonstrates that, as of May 2007, the Bureau of Fire Prevention has failed to follow many of the recommendations issued by the City Auditor in 2003.

City's Response: The City disagrees with this finding.

In November 2003, the City Auditor issued Report 03-10, "An Audit of the San Jose Fire Department's Bureau of Fire Prevention." To this date, based on information provided by the Fire Department, the Auditor has agreed that the Department has complied with 11 of the 16 recommendations contained in the Auditor's Report. (See attachment).

The Department continues to work diligently towards compliance with the remaining five recommendations. It reports to the Auditor's Office twice a year on progress, through the Auditor's Semi-Annual Compliance Report that is reviewed by Council. The Department has received support from the Auditor's Office relative to the direction it is pursuing.

Of the five remaining recommendations, two of them (#2 and #3) rely on completion of several IT-related projects currently underway, including the transfer of the Department's Fire Inspection Billing System (FIBS) database from the City's VAX computer at Old City Hall to the new AMANDA system at City Hall. Once the data is transferred, the AMANDA System will contain all of the information relative to the Fire Permits and the annual inspection programs.

One of the Auditor's recommendations (#10), development of a risk assessment methodology to assign facility inspection frequencies, will be completed based on work to be performed by a consultant following an RFQ process that is now underway. Another of the recommendations (#12) will be completed with finalization of the Bureau's Business Plan. The final recommendation (#16) will be completed through two steps: completion of an update of the Department's Administrative Citation Fine Schedule (which will be coming to Council this Fall), and implementation of internal procedures following updating of the Department's Records Management System, which is underway.

F2 The Bureau of Fire Prevention lacks a system to prioritize inspections based on risk assessments of the use or occupancy of structures and premises.

City's Response: The City disagrees partially with this finding.

BFP staff developed a draft policy for inspection priority in 2006, based on internal dialogue relative to the perceived risk or hazard for each type of occupancy. At that time, the Department decided to pursue funding for a consultant to make a recommendation on a methodology for prioritizing fire inspections based on relative risk by occupancy. The RFQ process for that consultant is now underway and the consultant recommendation is due by the end of this calendar year. At the present, the Bureau is organizing its fire inspection program based on the draft policy.

F3 There is no approved business plan to provide a focus for the Bureau of Fire Prevention. Thus, the Bureau of Fire Prevention is generally limited in its ability to assess its productivity and increase collectable revenue. Poor record keeping leaves the Bureau of Fire Prevention unaware of: the number of structures in its jurisdiction; changes in occupancy classification; the percentage of structures requiring inspections that are being inspected; the frequency of inspections; the need for re-inspections; the amount of potential revenue relative to the amount of fees collected; and whether code violations are being corrected in a timely manner.

City's Response: The City disagrees partially with this finding.

As described above, the BFP has not yet completed its Business Plan, so the Council has not had an opportunity to review and approve it. Finalization of the plan and submittal to Council will follow completion of the consultant study already mentioned. However, that does not mean there is no focus for the Bureau. The City and the Fire Department provide a number of guiding documents and performance measures that give direction to the Bureau. In addition, BFP

leadership has a clearly stated vision of the Bureau's mission and objectives, and works diligently to organize staff and resources to achieve those objectives. Bureau staff receives clear direction relative to priorities, objectives, and deadlines.

The other reason the City disagrees partially with this finding is that lack of a business plan does not "limit our ability to assess productivity and increase collectable revenue." The challenges that the Bureau faces in assessing productivity are primarily due to the lack of an up-to-date data management system. Implementation of such a system will alleviate nearly all of the other issues raised in this finding (structures, occupancy, inspections, frequency, re-inspections, and revenue).

The current source of data storage for the Bureau is in the FIBS system on the VAX computer at Old City Hall. The Fire Department has been working with the City's IT Department for three years to migrate that data into the City's AMANDA database (which is also used by Development Services to track building plans and construction inspections). The move is anticipated to be completed by the end of this calendar year. AMANDA has the capability of generating reports that far outstrips the VAX computer, and is expected to become the primary source of inspection and revenue data tracking for the Bureau.

F4 The Bureau of Fire Prevention lacks a data maintenance and retrieval system which renders it unable to show whether Code Enforcement is performing inspections in compliance with State and local law.

City's Response: The City disagrees partially with this finding.

As described above, the Bureau is challenged by the lack of an up-to-date data management system. However, the information relative to the number of inspections completed (to comply with State law) is available; at this time, manual data collection and multiple electronic data conversions are required to generate the numbers. The City expects this problem to be fully resolved soon after the inspection databases "go live" in the AMANDA system.

R1 Complete all recommendations from the Auditor's 2003 Report no later than January 2008. A status report on any outstanding audit recommendations should be updated and sent to the San Jose City Council annually.

City's Response: The recommendation has not been implemented, but will be implemented in the future. The time frame for completion will be described below.

For reasons outlined above, completion of Auditor's recommendations 10, 12, and 16 is estimated by June 2008. Completion of Auditor's recommendations 2 and 3 is dependent on the ability to complete full integration of the SJFD data management systems. Part of that is related to moving FIBS to AMANDA, but part is in the SJFD Records Management System Phase II, which is not currently funded.

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R2 Establish periodic inspections for other than State-mandated annual inspections, based on a structure's inspection history and occupancy risk assessment, and implement a self-inspection program for low-risk structures and premises.

City's Response: The recommendation will not be implemented because the City does not believe that it is warranted.

The Fire Department plans to complete the Fire Prevention Business Plan by the end of 2007. The purpose of that Plan is to identify what level of service the Bureau will provide to the community, which will include recommendations on types of fire prevention services. Those may include providing information and education on self-inspections for low risk structures, but that will be based on a determination of the feasibility and effectiveness of those programs, which is part of the consultant study that will take place this Fall. Basing inspections on "a structure's inspection history and occupancy risk assessment" is not feasible at this time, and may not be feasible even with completion of the data management systems proposed. The SJFD will establish inspection frequencies for selected occupancies, based on a risk assessment model that is being developed through the consultant study, but it is premature to assume that facilities that the State does not require to be inspected need inspection.

R3 Adopt a business plan to ensure that: inspection goals are set and achieved; maximum revenue is collected; inspections are done efficiently and are based on risk evaluations; an accurate and current inspection history is created for all structures and premises; and the Bureau of Fire Prevention's mandate to eliminate fire hazards in the use or occupancy of structures and premises is followed.

City's Response: The recommendation has not been implemented, but will be implemented in the future. The time frame for completion is June 2008.

The Fire Prevention Business Plan will be completed following completion of the consultant study that will take place this Fall. The SJFD is confident the Business Plan will be completed by June 2008. The recommendations of the Business Plan, once approved by Council, will become the framework for internal policies and procedures that will address most of the areas mentioned. It must be noted, however, that the ability to achieve inspection goals is dependent on creating and maintaining the appropriate level of staffing for the workload.

R4 Maintain a master list of occupancies to be inspected and update it monthly. As new structures or occupancies are constructed or established, add them to the inspection list.

City's Response: The recommendation has not been implemented, but will be implemented in the future. The time frame for completion is described below.

When the FIBS program is moved into AMANDA, the Fire Prevention Bureau will be able to maintain a list of occupancies that are permitted and/or require inspections; and that list will be updated on a more frequent basis than monthly. As indicated above, this work is anticipated to be

completed by the end of the year. The remaining information technology work that would be necessary to fully implement this recommendation is not currently funded and the timing of implementation will be subject to the provision of funding for the SJFD Records Management System Phase II.

EVALUATION AND FOLLOW-UP

As stated above, the Fire Department intends to comply with recommendations in the Auditor's 2003 Report, and will continue to keep the Auditor's Office updated on progress and outcomes. Fire Department staff expects that most of that work will be completed by June 2008. The Fire Department intends to report back to Council on its progress in August 2008 through an Information Memo.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

By the very nature of the Grand Jury's report and its release, public outreach requirements have been met. Additionally, upon approval of this memorandum by Council, the City Attorney will submit the memorandum to the presiding judge of the Superior Court, as required under Penal Code Section 933(c).

CONCLUSION

The City wishes to thank the members of the 2006-2007 Santa Clara County Civil Grand Jury for their time and effort in preparing this report. The City is sincerely interested in the concerns and perceptions of the individuals the Grand Jury interviewed.

COORDINATION

This report has been coordinated with the City Manager's Budget Office and City Attorney's Office.

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CEQA

CEQA: Exempt



DARRYL VON RAESFELD

Chief, Fire Department

For questions please contact Dave Schoonover, Fire Marshal at 408-535-7792.

Attachment A: Matrix of Completion Status of Auditor's Recommendations for Bureau of Fire Prevention.

Attachment B: Santa Clara County Civil Grand Jury's report entitled "Record Keeping in Disarray at San Jose Bureau of Fire Prevention."

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Recom#	Description	Priority	Status
1	Follow up on the facilities that are not in the FIBS database that we identified from comparing the FIBS database to the Business License database.	2	Complete
2	If Recommendation #1 results in a significant number of facilities being added to the FIBS database, follow up on the remaining manufacturing facilities in the Business License database that did not have a FIBS number.	2	Pending
3	Periodically compare the FIBS database with the Business License database using the SIC Codes that are most likely to require a fire safety inspection.	2	Pending
4	Develop written procedures to ensure that facilities identified from the New Accounts Report as potentially needing a fire safety permit are <ul style="list-style-type: none"> • Inspected; • Assessed as to whether a permit is required; and • Entered into the FIBS database if a fire safety permit is required. 	3	Complete
5	Establish written procedures to ensure that all facility deletions from the FIBS database are properly authorized.	3	Complete
6	Require the fire companies to submit information on the number of educational facilities actually inspected annually.	3	Complete
7	Inspect all facilities requiring an annual inspection on an annual basis.	2	Complete
8	Change its inspection goals to 100 percent for all facilities requiring an annual inspection.	3	Complete
9	Establish accountability for all Record of Inspection forms and ensure that an inspection is completed for all assigned Record of Inspection forms.	3	Complete
10	Develop a risk assessment methodology to assign facility inspection frequencies.	3	Pending
11	Improve its system of tracking the amount of time inspectors spend on inspections and inspection-related activities.	3	Complete
12	Develop a workload analysis to determine its inspection staff needs to achieve its inspection goals and objectives.	3	Pending
13	Develop formal policies and procedures that require the inspectors to follow up on identified violations in a timely manner and specify the actual compliance date on the Record of Inspection form.	3	Complete
14	Develop written policies and procedures for applying reinspection fees.	3	Complete
15	Ensure supervisory review and approval of completed Record of Inspection forms.	3	Complete
16	Develop procedures and controls to reduce the number of times inspectors return to facilities to confirm that an HMBP is in place and to ensure that facilities submit their HMBP in a timely manner.	3	Pending