CITY OF
SAN JOSE
CAPITAL OF SILICON VALLEY

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DAVID H. YAMASAKI
Chief Executive Officer/Clerk,
Superior Court of CA County of Santa Clara
BY D. ALDYCKI

HAND DELIVERED

The Honorable Richard J. Loftus, Jr.
Presiding Judge
Santa Clara County Superior Court
191 North First Street
San Jose, CA 95113

Re: Grand Jury Reports

Dear Judge Loftus:

Pursuant to California Penal Code section 933, et seq., please accept the City's response to the 2010-2011 Santa Clara County Civil Grand Jury Report, "Fighting Fire or Fighting Change? Rethinking Fire Department Response Protocol and Consolidating Opportunities." The approved City responses and the Grand Jury's Report are enclosed for your review.

Please feel free to contact me if you have any questions. Thank you for your consideration.

Very truly yours,

RICHARD DOYLE, City Attorney

By: _____
BRIAN DOYLE
Senior Deputy City Attorney

RD:BD
Enclosures

cc: Mayor Chuck Reed
Debra Figone, City Manager
William McDonald, Fire Chief

COUNCIL AGENDA: 9-13-11
ITEM: 8.1

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: William McDonald
Fire Chief

SUBJECT: SEE BELOW

DATE: August 22, 2011

Approved

Date 9/1/11

SUBJECT: RESPONSE TO CIVIL GRAND JURY REPORT: "FIGHTING FIRE or FIGHTING CHANGE? RETHINKING FIRE DEPARTMENT RESPONSE PROTOCOL AND CONSOLIDATION OPPORTUNITIES."

RECOMMENDATION

Accept and approve the staff response to the Civil Grand Jury Report "Fighting Fire or Fighting Change? Rethinking Fire Department Response Protocol and Consolidation Opportunities."

OUTCOME

Consideration and acceptance of the staff response to the Civil Grand Jury Report made public on June 15, 2011.

EXECUTIVE SUMMARY

The Fire Department's detailed responses to the four findings and ten recommendations of the Civil Grand Jury report are included in this response. Staff agrees with one finding, partially agrees with one finding and disagrees with two findings. In terms of the report's ten recommendations, three recommendations have been implemented, seven have been partially implemented and one should not be implemented at this time.

BACKGROUND

On June 15, 2011, the Santa Clara County Civil Grand Jury released a report entitled, "Fighting Fire or Fighting Change? Rethinking Fire Department Response Protocol and Consolidation Opportunities." The report focuses primarily on two areas, 1) emergency response protocols of County fire agencies primarily as they relate to prehospital emergency medical care, and 2) the initiative of the County fire service in pursuing potential opportunities to deliver services in a more regional and/or cost sharing manner.

According to the report, the Grand Jury interviewed all 15 Santa Clara County City Managers, all Fire Chiefs and Public Safety Chiefs responsible for fire departments, the Presidents of special fire district boards and selected Police Chiefs with a focus on the emergency medical dispatch function. Information for the Grand Jury report was also taken from the December 2010 Local Area Formation Commission (LAFCO) report titled "Fire Service Area Review."

While the report provided significant background and analysis, some inaccuracies were noted in the information upon which some findings and recommendations may have been developed. Three notable comments/misstatements are included here as they relate to how services are provided within the City of San José.

1. Page 10 of the report states; "When 70% of the calls require a medical response, and only 1-in-3 crewmembers are trained and certified to provide that response, there is a demand-to-service mismatch." All sworn San José Fire Department (SJFD) Firefighters are trained and certified in prehospital emergency medical care to at least the Emergency Medical Technician (EMT-Defibrillator) level and the Department has more than 140 paramedics, prepared to provide prehospital care, assigned to responding advanced life support field units. All members assigned to fire companies are highly skilled and work as a team on every emergency incident, including medical aid requests for service.
2. A misstatement is noted in Finding 3 on page 21 of the report. It states that, "paramedics on ambulances possess the skills needed to address the 96% of the calls that are not fire related." Earlier in the report, the Grand Jury points out that approximately 70% of the incidents responded to by County Fire Agencies are medical in nature. Of those, many are vehicle accidents requiring stabilization and often require extrication, are trapped or injured victims in need of rescue, or may need other interventions prior to administering medical assistance. Clearly in these situations, Firefighters are needed. Furthermore, in addition to wild land and structure fires, the Department responds to confined space incidents, hazardous materials releases, water emergencies, floods, explosions, electrical and natural gas emergencies, multi-casualty events, natural disasters and other request for services that rely on the variety of disciplines and skills of Firefighters. Ambulance paramedics are not trained, equipped or properly skilled to manage these emergencies.
3. Throughout the report it is stated that County Firefighters and Unions are unwilling to collaborate or assist cities in improving or enhancing services and are uncooperative in helping to solve problems that are facing cities and fire districts. As you know, San José Firefighters demonstrated significant leadership in assisting the City in closing the budget deficit by voluntarily accepting pay and compensation reductions this and next fiscal year. Also, San José Firefighters are fully engaged as partners with Department staff in an established Labor-Management Process which provides oversight, guidance and direction to Department teams who identify opportunities and resolve issues through collaboration. Additionally, Staff in partnership with Local 230 has conducted a comprehensive review of the Department's ability to provide emergency response services as well as address less emergent requests for services, and is developing an implementation action plan to be completed during this fiscal year. The evaluation identified several areas of potential improvement and deficiency, as well as the recognition that the Department's very limited emergency resources can and must be utilized in a more discerning and strategic manner.

ANALYSIS

California Penal Code Section 933c requires that a governing body of the public agency which has been subject to a Grand Jury final report shall respond within 90 days to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under control

of the governing body. The code section contains guidelines for responses requiring the City to state one of the following in response to the Grand Jury findings:

- It agrees with the finding.
- It agrees partially with the finding and provides explanation.
- It disagrees wholly with finding and provides explanation.

In addition, for each Grand Jury recommendation, the City is required to report one of the following actions:

- The recommendation has been implemented, with a summary regarding the implemented action.
- The recommendation has not yet been implemented, but will be implemented in the future, with an implementation timeframe.
- The recommendation requires further analysis, with an explanation and the scope of the parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion, which shall not exceed six months from the date of publication of the Grand Jury report.
- The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation.

GRAND JURY FINDINGS, RECOMMENDATIONS AND CITY'S RESPONSE

Civil Grand Jury Finding 1

It is extremely costly to equip a fire department for only the occasional fire response; the County and fifteen towns/cities have not been proactive in challenging fire departments to adopt changes that are more cost effective and that better serve their communities. Further, unions are more interested in job preservation than in providing the right mix of capabilities at a reasonable cost, using scare tactics to influence the public and fostering unwillingness to collaborate with EMS.

City Response:
The City of San José disagrees with this finding. The San José Fire Department (SJFD) has been challenged over the past ten years of budget reductions to provide fire and emergency services with fewer emergency responders than are needed to adequately protect a metropolitan city of our population, geographic size, density, level of hazard and assessed value. Additionally, SJFD provides excellent fire protection and emergency medical services to residents and businesses at nearly the lowest cost per capita with the lowest number of Firefighters per resident in the County of Santa Clara. Nationally, the City of San José has the lowest per capita and lowest actual number of Firefighters of the 25 largest population cities in the country.

All sworn SJFD Firefighters are trained in emergency medical response to at least the Emergency Medical Technician (EMT-Defibrillator) level and the Department has more than 140 paramedics, prepared to provide prehospital care, assigned to responding field units. The first responder emergency medical services system managed by Santa Clara County Emergency Medical Services Agency in partnership with County Fire Departments is a lower cost model

than an all ambulance approach because the prehospital care system builds on existing emergency resources and uses incremental costs to enhance basic life support services. An all ambulance provided advanced life support services model would require a major financial investment of the private provider and would significantly increase user fees as a result of the need for more units and resources.

San José Firefighters Local 230 has been actively engaged with Department staff and its members in evaluating response practices and protocols and the Department is currently modifying responses to more appropriately reflect the type and severity of emergency that has been reported. This is necessary and responsible given the critical importance of utilizing the limited resources to their fullest potential and ensuring that resources are available for larger, more complex and sustained emergencies.

Civil Grand Jury Recommendation 1A

All cities that manage their own fire department – Gilroy, Milpitas, Mountain View, Palo Alto, San José, Santa Clara, Sunnyvale – and the County (for CCFD and SCFD) should benchmark and observe best practices from communities that have demonstrated successful changes in response protocol and consolidation efforts, such as San Mateo County, CA; West Jordan, UT; or Scottsdale, Arizona.

City Response:
Although it is not clear which benchmarks the Civil Grand Jury is referring to here, this recommendation has been partially implemented. The SJFD has consistently looked for opportunities and evaluated policies and procedures to improve how services are provided to the community. The Department has completed two comprehensive evaluations (benchmarked to national best practices) of the entire City emergency deployment system over the past ten years and submitted several approved recommendations to the Council during that time period. The Department is currently engaged in implementing several major response protocols and unit changes that will reduce the number of personnel responding to emergencies of all types, "scaling" resources needed to abate the reported emergency and ensuring the appropriate type and number of companies are dispatched based upon the reported emergency.

The Department is also engaged in discussions with neighboring and adjacent departments in considering automatic aid and boundary drop enhancements as well as sharing services or providing services in a more cost effective and consolidated manner. Currently mutual and automatic aid support between County fire departments enhances emergency services and creates a cost-effective and responsible manner in which to provide services. The next evolution will be to agree to the mutually beneficial, complete elimination of boundaries between political subdivisions. Under this agreement as an example, an available San José fire engine located in an area that is closer to a reported emergency in an adjacent jurisdiction will be dispatched to the incident as though the boundary did not exist thereby lowering the response time and providing faster services. The same reciprocal service would also be provided to San José locations from closer neighboring agency fire companies. The City of San José has approached adjacent agencies regarding this possibility and believes that such an agreement would greatly improve service delivery throughout the County of Santa Clara.

Civil Grand Jury Recommendation 1B

All cities that manage their own fire department – Gilroy, Milpitas, Mountain View, Palo Alto, San José, Santa Clara, Sunnyvale – and the County (for CCFD and SCFD) should determine the emergency response service they want to achieve, particularly as to the result, then determine how best to achieve that.

City Response:
The recommendation has been partially implemented, but more progress is expected to be accomplished during Fiscal Year 2011/2012. Department employees are committed to serving City residents and businesses in a very dedicated, professional and cost-effective manner. Staff, in partnership with San José Firefighters Local 230, has conducted a comprehensive review of the Department's ability to provide emergency response services as well as address less emergent requests for services. In addition, they are developing an action plan to be implemented during this fiscal year. The evaluation identified areas of concern or in need of improvement; and recognized that the Department's very limited emergency resources can and must be utilized in a more discerning and strategic manner.

A Project Leadership Team and Project Manager have been assigned to fully implement many of the recommendations that are the result of the analysis and a very stringent set of monitoring tools will assist the City in assessing progress and anticipated outcomes.

Civil Grand Jury Recommendation 1C

All cities that manage their own fire department – Gilroy, Milpitas, Mountain View, Palo Alto, San José, Santa Clara, Sunnyvale – and the County (for CCFD and SCFD) should collaborate with their fire department, union and political leadership to drive department change and develop consistent, joint communications messages for the public.

City Response:
The City agrees and has partially implemented this recommendation. Relationship building has begun and continues to show great promise and success in terms of developing effective solutions to concerns and problems facing the City. However, some of the remaining issues and potential alternatives may have real and/or perceived impacts on City employees which will challenge sometimes strained relationships. The City, Local 230 and our members are committed to collaboration that will provide great services, achieve cost effectiveness and identify opportunities to provide emergency services at the level needed and desired by residents and businesses of the City.

Civil Grand Jury Finding 2

Based on SCC's fluctuating demand for emergency services, contractually based minimum staffing requirements are not warranted and hinder fire chiefs in effectively managing firefighter staffing to meet time of day, day of week, season of year demand. This wastes money and may drive station closure (sic) as budgets continue to erode.

City Response:
The City partially agrees with this finding. With the passage of Measure V in 2010, the City Charter now provides the Fire Chief with the discretion to set staffing levels for the Department. The City's current agreement with San José Firefighters Local 230 sets staffing levels on engine and truck companies at four Firefighters through the term of the Memorandum of Agreement, ending June 30, 2013. The Council may provide direction to staff relative to minimum staffing level sections within the agreement if it is determined to be necessary or beneficial to the operation at that time.

Civil Grand Jury Recommendation 2

All cities that manage their own fire department – Gilroy, Milpitas, Mountain View, Palo Alto, San José, Santa Clara, Sunnyvale – and the County (for CCFD and SCFD) and that also have contractual minimum staffing requirements should reopen negotiations with the unions to eliminate this term and any other term that limits a fire chief's ability to "right-size" staffing given the time of day or time of year.

City Response:
The City of San José passed a ballot measure in 2010 providing the City Council with the clear authority to set staffing levels as needed and recommended by the Fire Chief. Staff in collaboration with San José Firefighters Local 230 has conducted a comprehensive review of the Department's ability to provide emergency response services as well as address less emergent requests for services and is developing an implementation action plan to be completed during this fiscal year. The evaluation identified several areas of concern, in need of improvement or in a state of deficiency; and recognized that the Department's very limited emergency resources can and must be utilized in a more discerning and strategic manner.

Civil Grand Jury Finding 3

Whether the emergency responder is a firefighter-paramedic or an EMS paramedic matters little to the person with the medical emergency; using firefighter-paramedics in firefighting equipment as first responders to all non-police emergencies is unnecessarily costly when less expensive paramedics on ambulances possess the skills needed to address the 96% of the calls that are not fire related.

City Response:
The City of San José wholly disagrees with this finding, particularly the statement that ambulance paramedics possess the skills to respond to 96% of Fire Department responses. While medical aid requests make up 70% of the Fire Department's emergency responses by number, many incidents that are not identified as "fire" responses, including many medical aid requests (i.e., auto accidents, rescues, trapped victims, hazardous materials releases, etc.), require rescuers to have skills beyond that of an Ambulance Paramedic. Additionally, the County EMS System is appropriately built upon fire agency responses facilitating an ambulance transportation provider

Further, Fire Department station locations facilitate a rapid response initiating care much sooner and seriously ill and injured patients require more personnel than the two that arrive on all County ambulances. Additionally, Firefighters as first responders are a cost effective, incremental method of enhancing basic emergency medical services and our response ensures the security and safety of the emergency scene and personnel. Finally, Firefighters are trained in a variety of skills required for the variety of emergencies that the Department responds to including accident stabilization, extrication, collapses, trapped persons, motor vehicle accidents and hazardous materials releases. These skills are in addition to firefighting and medical aid incidents making cross-trained Firefighters more cost effective than having to add "specialists" to the response system.

Civil Grand Jury Recommendation 3A

All 15 towns/cities – Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Monte Sereno, Morgan Hill, Milpitas, Mountain View, Palo Alto, San José, Santa Clara, Saratoga, Sunnyvale – and the County (for CCFD and SCFD) should adopt an emergency services department mentality and staff or contract accordingly to meet the demand.

City Response:
The assumption made here is that the Civil Grand Jury, in suggesting that the County Fire Departments should "adopt an emergency services department mentality" is that Fire Departments should recognize that they provide a broader level of services than just fire protection. The City of San José agrees with this recommendation. Through our history, the Department has continued to improve and evolve the services provided over time and to develop the skills and competencies of our employees in addressing the increasing demands and responsibilities in our City. This year, a comprehensive analysis of the City's system of fire stations and emergency response resources and its ability to provide all-risks services has been recently updated. Significant recommendations will be implemented, based upon the findings of the report, over the next few months of Fiscal year 2011/2012. Staffing levels however are well below what is required within the City of San José given the area, population, density, and level of hazard and activity, which may not be addressed until such time that the local economy improves or other funding sources are secured.

Civil Grand Jury Recommendation 3B

The County should modify its approach to mandating (through direct contract or through EMS provider contract) that fire departments serve as first-responder, reserve the use of firefighting vehicle for fire events, and enable the EMS contractor to be (sic) first responder.

City Response:
The City of San José disagrees with this recommendation. The Department has continued to improve and evolve the services provided over time and to develop the skills and competencies of our employees in addressing the increasing demands and responsibilities in our City. The Department has become much more regional in our approach to service delivery and the partnerships that have been cultivated in order to enhance services while keeping costs as low as possible. The evolution of the County Emergency Medical Services (EMS) System is a successful example of this. Since its inception in 1995, the continuously improving regional and

seamless partnership provides very high quality prehospital emergency medical care through a cost effective model that builds on the cooperation and integration of County fire agencies in collaboration with the County and the private ambulance provider.

The system is built and based upon the resources that existed within the County through the County fire agencies and the practice of mutual and automatic aid with the potential for full jurisdictional boundary drops. Incremental costs related to training and medical equipment purchases created an opportunity to provide first responder advanced life support services through existing personnel placed in locations that facilitated rapid response to emergencies. The system has evolved from separate stand-alone operations, to a provider-contractor relationship, to a fully integrated public-private partnership that takes advantage of the strengths of all the component agencies keeping costs and redundancies lower than would be possible otherwise.

The County Fire Agencies, because of the locations of their neighborhood fire stations, can arrive at the scene of reported emergencies within 7 minutes: 59 seconds (County first responder requirement) and begin medical assessment and intervention through a fully medically trained crew allowing for ambulance personnel to arrive later because advanced life support services have already been initiated. This model causes medical intervention to be delivered faster and at a much lower total system cost to the users than through an all private ambulance system that would require significantly more resources to provide the same level of care. An all ambulance prehospital care system will result in higher user fees to City of San José residents or longer emergency response times.

Department staff has been actively engaged with San José Firefighters Local 230 and its members in evaluating response practices and protocols and is currently "scaling" responses facilitated by our Emergency Priority Dispatch System to more appropriately reflect the type and severity of emergency that is reported. This is necessary and responsible given the critical importance of utilizing the limited resources to their greatest potential and ensuring that resources are available for larger, more complex and sustained emergencies.

Civil Grand Jury Recommendation 3C

In consideration of non-fire emergencies all cities that manage their own fire department – Gilroy, Milpitas, Mountain View, Palo Alto, San José, Santa Clara, Sunnyvale – and the County (for CCFD and SCFD) should modify fire department protocols to authorize, incorporate and use less expensive non-firefighter paramedics and non-firefighting equipment.

City Response:
The City has partially implemented this recommendation. The Department utilizes the same highly trained and skilled employees to respond to all types of reported emergencies within the City and through agreements regionally and it is a more cost-effective and efficient approach. The use of existing personnel with added skills, training, and equipment facilitates the ability to provide all-risks emergency services without the costs of additional personnel, resources or other infrastructure.

Our Firefighters respond to emergencies with apparatus (vehicles) that are equipped to address a variety of situations. In some cases, there are options that are more cost effective than using large vehicles as a multipurpose platform. We are mindful of the cost to replace large fire apparatus and ensure that they are utilized in the most appropriate way. We make responsible decisions to reduce wear and tear, avoiding excessive mileage and are working to limit expenditures in a strategic way. At this time, several significant recommendations regarding the use of our apparatus as well as alternative vehicle uses are being evaluated in anticipation of vehicle replacement cycles and policy and procedural changes that will better support our mission and a Department and the interests of our residents. It is expected that recommendations on apparatus uses and future purchases will come forward during the current fiscal year.

Civil Grand Jury Recommendation 3D

All cities that manage their own fire department – Gilroy, Milpitas, Mountain View, Palo Alto, San José, Santa Clara, Sunnyvale – and the County (for CCFD and SCFD) should consider ways to extend the service life of expensive firefighting vehicles by augmenting with ambulance vehicles – either newly purchased as fire apparatus is replaced or in collaboration with the county EMS provider.

City Response:
The City of San José agrees with this recommendation and it has already been implemented. The Department currently has a 17 to 20 year replacement cycle for large apparatus and owns and operates six ambulances as well as other smaller utility vehicles to support the Department's mission. Alternative response practices are also being evaluated and implemented to further support this recommendation.

Civil Grand Jury Finding 4

Emergency callers care less about seeing their city/town name on the equipment door than receiving timely assistance when needed, and a wide variety of consolidation opportunities offer cities ways to deliver emergency response services at a reduced cost and without compromising service response times.

City Response:
The City agrees with this finding. Staff has been in discussions with neighboring fire agencies on a variety of relationship agreements that will improve and enhance services to all communities served. These include boundary drops, enhanced automatic aid, the potential for sharing and contracting new services, other regional fire and EMS delivery options and department consolidations.

Civil Grand Jury Recommendation 4A

All cities that manage their own fire department – Gilroy, Milpitas, Mountain View, Palo Alto, San José, Santa Clara, Sunnyvale – and the County (for CCFD and SCFD) should evaluate and implement cost-saving consolidations, including administration consolidation, boundary drop, department or regional consolidation, purchasing, personnel training and equipment maintenance.

City Response:
The City of San José agrees with this recommendation. However, its full implementation depends on the willingness and ability of County agencies to collaborate and agree on mutually beneficial relationships. Department Staff has been in discussions with neighboring fire agencies on a variety of relationship agreements that will improve and enhance services to all communities served. These include boundary drops, enhanced automatic aid, the potential for sharing and contracting new services, other regional fire and EMS delivery options and department consolidations.

Civil Grand Jury Recommendation 4B

All cities that manage their own fire department – Gilroy, Milpitas, Mountain View, Palo Alto, San José, Santa Clara, Sunnyvale – and the County (for CCFD and SCFD) should consider adopting a vehicle management approach by establishing a county-wide standard for vehicles and equipment, consolidating purchases to take advantage of lowered costs, and consolidating maintenance or revisiting guaranteed maintenance contracts on new vehicle purchases.

City Response:
The City of San José agrees with this recommendation. However, its full implementation depends on the willingness and ability of County agencies to collaborate and agree on mutually beneficial relationships. Department Staff has been in discussions with neighboring fire agencies on a variety of relationship agreements that will improve and enhance services to all communities served. These include boundary drops, enhanced automatic aid, the potential for sharing and contracting new services, other regional fire and EMS delivery options and department consolidations.

/s/
WILLIAM MCDONALD, Fire Chief

For questions, please contact William McDonald, Fire Chief, at 408-794-6951.