



2006-2007 SANTA CLARA COUNTY CIVIL GRAND JURY REPORT

RECORD KEEPING IN DISARRAY AT SAN JOSE BUREAU OF FIRE PREVENTION

Summary

The 2006-2007 Santa Clara County Civil Grand Jury (Grand Jury) conducted a review of the actions of the San Jose Fire Department, Bureau of Fire Prevention (Bureau of Fire Prevention). The purpose 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 Grand Jury found that while there has been minimal progress in some areas, a number of the Auditor's recommendations have not been implemented. The Grand Jury found the Bureau of Fire Prevention has taken little action on the 2003 Auditor's report. The Grand Jury recommends that the Bureau of Fire Prevention fully implement all recommendations stated in the 2003 audit no later than January 2008.

Background

During Fiscal Year 2003-2004, the Auditor examined the San Jose Fire Department, Bureau of Fire Prevention's fire safety, school, and multiple housing inspection programs. The review covered the period from 1998 through 2002. The Auditor's report listed three findings and sixteen recommendations. The Auditor concluded that the Bureau of Fire Prevention needed to significantly improve its code enforcement capabilities, particularly in the area of new structures that need to be added to the Fire Inspection Billing System (FIBS) database, a computer program that is designed to provide current information on inspections. The Bureau of Fire Prevention's response to the 2003 audit was that they concurred with the recommendations and would take steps to immediately implement a large portion of the recommendations. However, they have not done so.

Discussion

Today, the San Jose Fire Department operates from 31 fire stations, serves a population estimated at 945,000, and covers an area of 205 square miles. In 1945, the City of San Jose established a Bureau of Fire Prevention within its Fire Department for which the City's Deputy Chief/Fire Marshal has ultimate responsibility. The function of the Bureau of Fire Prevention is to protect life and property against fire, explosion, and panic. One means that the Bureau of Fire Prevention uses to accomplish its mandate is to inspect certain facilities within its jurisdiction. These inspections are done according to the California Uniform Fire Code which the City of San Jose has adopted (San Jose Municipal Code § 17.12.010).

The Bureau of Fire Prevention's Code Enforcement Division has the following duties: inspecting all facilities the State mandates to receive annual inspections; inspecting facilities not State-mandated to be inspected but which are required to hold Fire Safety permits; and inspecting special events (e.g. concerts, festivals, pyrotechnics, and temporary tent sites).

The State mandates annual fire inspections for all high-rise structures (H&S Code § 13217(a)); community, residential, and day care facilities for: adults or children (H&S Code § 13235(b)); all public and private schools (H&S Code § 13146.3); apartments with three or more units, hotels, motels and lodging houses (H&S Code § 17921(b)); and jails or places of detention. The San Jose Fire Department has elected to leave inspection responsibility of jails and detention facilities to the State Fire Marshal pursuant to Health and Safety Code § 13146.1.

In addition to State-mandated inspections, a number of State and local laws require inspections of facilities that are required to carry Fire Safety permits. These facilities include, without limitation: automobile wrecking yards; dry cleaners; woodworking operations; non-high-rise buildings with four or more floors; health facilities; lumberyards; firewood and tire storage; places of assembly for 50 or more people; and automobile repair shops.

As of Fiscal Year 2005-2006, the City of San Jose reportedly had 58 high-rises, 70 private schools, and 850 residential care and large family day care facilities. During that same period, there were 3,919 facilities within Bureau of Fire Prevention's jurisdiction that required Fire Safety permits, excluding those State-mandated to be inspected annually, and 273 special events.

The Bureau of Fire Prevention utilizes three computer systems to implement its inspection duties:

- Fire Inspection Billing System (FIBS) maintains a history of facilities that are subject to inspections, automatically schedules inspections, and computes associated fees for billing purposes.
- Advanced Maryland Automatic Network Disk Archiver (AMANDA) compiles statistics from information concerning the number of inspections required, inspections completed, and time spent on inspections.
- Intelligent Vehicle Access Control System (IVACS) is the business license program that alerts the Bureau of Fire Prevention to new and existing facilities which require pre-inspections to determine whether those facilities need Fire Safety permits.

Conclusion

The Fire Department's Bureau of Fire Prevention failed to prove to the Grand Jury that it had adopted a large number of the recommendations from the 2003 Auditor's Report, nor could the Bureau of Fire Prevention provide the Grand Jury any updated information on actions taken to implement the 2003 audit recommendations. In addition, there is currently no formal plan in place to correct any of the deficiencies still outstanding as noted in the 2003 Auditor's Report.

Findings

The following findings were reviewed with the subject agency:

- 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.
- 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.
- 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.
- 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 laws.

Recommendations

The 2006-2007 Civil Grand Jury recommends that the Fire Department take the following actions:

- 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.
- 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.
- 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.
- 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.

Bibliography

California Code of Regulation, Title 19. *Regulations of the State Fire Marshal.*

California Health and Safety Code, Sections 12081, 13100-13147, 13210-13235, 17920-17921.

City of San Jose Municipal Code, Section 17.12.010, et seq.

City of San Jose, Office of the City Auditor. *Report #03-10: An Audit of the San Jose Fire Department's Bureau of Fire Prevention*, November 26, 2003.

Interviews

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| November 01, 2006 | Interviewed City of San Jose Fire Department, Bureau of Fire Prevention official. |
| November 17, 2006 | Interviewed City of San Jose Department of Planning, Building and Code Enforcement personnel. |
| December 06, 2006 | Interviewed Santa Clara County Department of Environmental Health personnel. |
| January 24, 2007 | Interviewed City of San Jose Fire Department, Bureau of Fire Prevention official. |
| March 02, 2007 | Interviewed City of San Jose Information Technology Division, Department of Application personnel. |
| March 05, 2007 | Interviewed City of San Jose Finance Department personnel. |
| March 07, 2007 | Interviewed City of San Jose Fire Department, Bureau of Fire Prevention officials. |
| March 15, 2007 | Interviewed City of San Jose Department of Finance personnel. |
| March 21, 2007 | Interviewed City of San Jose Fire Department, Bureau of Fire Prevention personnel. |
| May 03, 2007 | Interviewed City of San Jose Fire Department, Bureau of Fire Prevention official. |

PASSED and **ADOPTED** by the Santa Clara County Civil Grand Jury on this 22nd day of May 2007.

Ronald R. Layman
Foreperson

David M. Burnham
Foreperson Pro tem

Kathryn C. Philp
Secretary