



## 2006-2007 SANTA CLARA COUNTY CIVIL GRAND JURY REPORT

# FLAWED RFP PROCESS HOLDS UP SELECTION OF NORTHSIDE COMMUNITY CENTER OPERATOR

### Summary

The San Jose City Auditor's (City Auditor) report of June 16, 2005, described management, financial, and operational problems at the Jacinto "Tony" Siquig Northside Community Center (JTS Northside CC).<sup>1</sup> In response to this report, the San Jose City Council issued a memorandum dated December 13, 2005, with eight recommendations.<sup>2</sup>

The 2006-07 Santa Clara County Civil Grand Jury (Grand Jury) investigated whether the San Jose City Council's recommendations for continued operation of the JTS Northside CC had been implemented by the City's Parks, Recreation, and Neighborhood Services Department (PRNS). Two recommendations of the City Council became irrelevant, and of the remaining six, PRNS has implemented five. PRNS has assumed responsibility for the management and oversight of the Center.

The Grand Jury has recommended that:

- PRNS should work with the City Auditor on future Requests for Proposal (RFP) to ensure that adequate financial and management oversight measures are specified in the contracts. After a contract has been awarded, PRNS should assign qualified and sufficient staff to ensure that these safeguards are, in fact, being enforced.
- PRNS should revise and rebid the RFP for JTS Northside CC. PRNS should also accept the offer to work with local agencies to address the perceived deficiencies in the Community Center Facility Reuse RFP process and to communicate more openly with them.
- PRNS should delay selecting a new operator for JTS Northside CC.

### Background

The JTS Northside Community Center is located at 488 North Sixth Street adjacent to Japantown, an historic neighborhood near downtown San Jose. The original Northside Community Center was built in 1975. In 1978, the Filipino-American Senior Opportunities Development Council, Inc. (Fil-Am SODC) began operating the Center and has received various grants from San Jose to run its senior programs there since 1979. The current state-of-the-art 16,650 square foot facility was designed as a

multifunctional community center and reopened at this same location as the Jacinto “Tony” Siquig Northside Community Center in 2003. Fil-Am SODC used the Center to provide programs and activities for the local community with an emphasis on senior activities including health, education, and recreation. Programs included exercise, Yoga, art, Thai Chi, dance classes, health education workshops, and Indo-American services, as well as various youth programs including Filipino history, cooking classes, and a teen leadership club.

On June 16, 2005, the City Auditor issued a report on Fil-Am SODC regarding its compliance with the City of San Jose’s grant agreement with PRNS.<sup>3</sup> In this report, the City Auditor detailed the reasons for the audit.

*On December 4, 2003, the former Deputy Director for the Fil-Am SODC wrote a letter addressed to the PRNS Grants Superintendent. This letter listed a number of complaints against the Fil-Am SODC and its operations and use of City funds. PRNS assigned a staff member to investigate the complaints. PRNS reviewed the complaints and concluded that “There is no evidence to conclude that there has been a misuse of City funds” but that “The volunteer Board of Directors [sic] oversight of the organization needs to be improved and strengthened.”*

*Subsequent to PRNS’ review, the City Manager’s Office asked and the City Auditor’s Office agreed to conduct a more detailed audit of the agreements between Fil-Am SODC and the City.<sup>4</sup>*

In contrast to the PRNS review, the City Auditor found that \$219,414 of grant money was used by Fil-Am SODC to pay for activities that “were not allowed in the City’s grant agreements during 2002-03 and 2003-04.”<sup>5</sup> With regard to this issue, the City Auditor found that PRNS’ oversight was inadequate.

The findings of the City Auditor’s report caused concern, and on December 13, 2005, the San Jose City Council approved a memorandum from Vice Mayor Cindy Chavez and Council Members Ken Yeager and David Cortese.<sup>6</sup> The memorandum had eight recommendations designed to remove Fil-Am SODC from the JTS Northside CC operation and to ensure continuation of quality programs that reflect the diversity of constituents in the surrounding community. The recommendations were as follows:

1. Allow the existing agreement with Fil-Am SODC to expire on December 31, 2005.
2. Request that Asian Americans for Community Involvement (AACI) assume operational responsibility for JTS Northside CC effective January 1, 2006.
3. Direct PRNS to assign senior staff to complete an expedited process to identify an alternative operator for the JTS Northside CC by June 30, 2006. The process should include a comprehensive needs assessment and competitive RFP to identify the most qualified provider that can meet the service demands identified through the community process.

4. Direct PRNS to assign senior staff to attend regular AACI board meetings and to ensure that the organization is in compliance with all city policies and procedures.
5. Make JTS Northside CC available to culturally sensitive organizations.
6. Make JTS Northside CC available for additional community uses, preserving the priority needs of the Northside community.
7. Reallocate \$58,354 of general fund money to PRNS to pay for ongoing expenses associated with the operation of JTS Northside CC.
8. Direct PRNS staff to work with AACI in the formation of a Program Advisory Committee. Committee membership would include diverse community representation with an emphasis on Filipino-American community service.

## **Discussion**

The Grand Jury conducted several interviews with PRNS management on September 1, 2006, to determine the status of the City Council's eight recommendations and PRNS' actions taken to comply with them.

Responses to the concerns of the City Council's memorandum were as follows:

1. The existing agreement with Fil-AM SODC was allowed to expire on December 31, 2005.
2. PRNS officially took over operational responsibility for JTS Northside CC during the first week of January 2006. As a result, AACI was never involved in the operation of the Center.
3. PRNS released an RFP to solicit bids to operate JTS Northside CC on March 6, 2006. Since there were no bidders on this RFP by the April 24, 2006, deadline, it was recalled. As a result, an alternative operator for JTS Northside CC was not identified by June 30, 2006, as recommended by the San Jose City Council. PRNS believes that the reason for the lack of bidders was a failure on its part to circulate wide public notice of the RFP.

However, research by the Grand Jury discovered that local nonprofit entities were aware of the RFP but had substantial concerns with its content. Silicon Valley Council of Nonprofits (SVCN) issued a newsletter on May 15, 2006, detailing specific issues regarding PRNS' RFP evaluation criteria, the RFP process and timeline, as well as other issues specific to the JTS Northside CC RFP.<sup>7</sup>

The initial RFP was then revised by PRNS Administrative Services Division with assistance from the City Auditor's office. Various provisions were enhanced with more detail, and new provisions and financial support from the City were promised. The resulting amended RFP was released on August 11, 2006.<sup>8</sup> As stated in a PRNS press release, "The City is offering one-time funds of \$142,000 to assist the operator in offsetting initial operation and maintenance costs such as utilities, custodial maintenance services, including landscaping services for the grounds of the center, and ordinary maintenance and repairs."<sup>9</sup> In addition to the press release, the announcement was expanded to include a posting on the PRNS website, distribution of flyers, and advertisements in the *San Jose Mercury News*,<sup>10</sup> the *Almaden Times*,<sup>11</sup> and the *San Jose Metro* newspapers.<sup>12</sup>

The amended RFP called for proposals with a deadline of September 25, 2006. The only response came from the Asian American Recovery Services, Inc. (AARS) as the lead agency partnering with the Filipino Youth Coalition (FYC). Three other organizations, Yu-Ai Kai, Catholic Charities, and Self Help for the Elderly, attended the pre-proposal conference on August 22, 2006, but none of these organizations bid on the project.

Due to incomplete documentation in their proposal package, the AARS-FYC bid was rejected. PRNS took this opportunity to revise the RFP again before reissuing the request for a third time on October 23, 2006. Most significant was a change in the proposal evaluation criteria increasing the weight of financial capacity from 15 to 20 percent. Again, the only bid received was from AARS in partnership with FYC.

The PRNS Director acknowledged in an interview with the Grand Jury on November 22, 2006 that PRNS was well aware of the concerns of the nonprofits bidding on their RFPs. In September 2006, SVCN sponsored focus groups for nonprofits to discuss and present their concerns. The Director's conclusion was that, "bottom line, it comes down to money." In fact, in its *Statement on the City of San Jose Community ReUse [sic] Strategy* dated October 16, 2006, SVCN addresses and essentially agrees with this assessment saying, "The city can not expect to salvage their fiscal difficulties at the expense of nonprofit providers."<sup>13</sup>

The RFP specifically requires an operator to adhere to the City fee schedule for services, specifies allowable fees for nonprogram use of a facility, and requires the operator to pay for certain capital improvements. It is also important to note that PRNS has not prepared a pro forma financial analysis of the actual costs to run the JTS Northside CC, and cannot confirm that the costs allowed in the RFP are adequate to deliver the required services.

The City Council's final approval of the new operator is scheduled for March 2007. Under the terms of the latest RFP, the new operator is scheduled to take over operational control of JTS Northside CC in August 2007. This is more than a year later than directed by the San Jose City Council. The contract is for a three-year

period and is renewable at the City's discretion. PRNS will continue to act as the interim operator until a new operator is selected.

4. The request for AACI to assume responsibility for JTS Northside CC was superseded when PRNS took interim control of the Center. There was no reason after that for PRNS to attend AACI board meetings.
5. With PRNS as interim operator, outreach programs have begun to engage Filipino community organizations, as well as others, into the Center. For example, this summer the first day camp for children was organized by PRNS. This was a response to changing demographics, with younger families moving into the area.
6. Upon taking control of JTS Northside CC, PRNS has hosted open house events and has engaged in community outreach. This is in addition to continuing senior nutritional lunches and exercise and youth programs named in this report.
7. Reallocation of general funds has taken place, including \$58,354 for PRNS' operation of the Center from January through June of 2006. The City Council has authorized an additional \$142,000 for PRNS to continue the Center's operation from June 30, 2006, until the new operator takes over control on June 30, 2007. This date has been extended to August 2007.
8. PRNS has formed a Program Advisory Committee. Several meetings have been held and are ongoing. The committee includes members from diverse neighborhood groups with the mission of implementing needed programs.

## **Conclusions**

The Grand Jury is concerned by the lack of bidders for the JTS Northside CC contract. In a letter from SVCN to the Mayor and City Council, problems with the JTS Northside CC RFP and the Community Center Facility Reuse RFP requirements and process were detailed. These included lack of clear funding amounts, limited time allowed to respond to the RFP, unresponsiveness of PRNS staff to telephone calls and letters, the requirement to hire City staff for maintenance and repairs, lack of clear evaluation criteria for the bids, and perceived conflict of interest of members of the selection committee.<sup>14</sup>

A significant concern was that, of the evaluation criteria, only 15 percent of the total weighted scoring was assigned to financial capacity of the bidding agency. "Financial capacity and financial viability are key components to success for both operations and programming for community centers as evident in previous City Auditor reports."<sup>15</sup> While this criterion was increased to 20 percent in the October 23, 2006 RFP,<sup>16</sup> it still indicates that economic concerns are not given enough consideration. Community Foundation Silicon Valley (CFSV) made a number of recommendations in a letter to the San Jose Mayor, including that the City increase the weight of the "Financial Capacity" criteria in the RFP to "at least 30 percent."<sup>17</sup>

## Findings

The following findings were reviewed with the subject agency.

- F1:** PRNS oversight of JTS Northside CC and Fil-Am SODC agreements was inadequate, resulting in the loss of \$219,414 in taxpayer money and in the involvement of San Jose City Council to try to correct the problem.
- F2:** The three RFPs published by PRNS in March, August, and October 2006 for JTS Northside CC operation attracted only one bid for the contract. The lack of bidders for the contract validates the Grand Jury's concerns that the RFP process is flawed. This is viewed as a severe warning sign of potential failure of the Center's operation. Specific financial and communication deficiencies in the Community Center Reuse RFP process have been identified to the Mayor and San Jose City Council.
- F3:** PRNS has implemented five of the eight recommendations of the San Jose City Council's December 13, 2005 Memorandum. Two recommendations that concerned working with AACI for interim operation became moot when PRNS assumed control of the Center. The remaining recommendation to select a new operator through a competitive RFP process has not yet been implemented.

## Recommendations

The 2006-2007 Grand Jury recommends that PRNS take the following actions:

- R1:** PRNS should work with the City Auditor on future RFPs to ensure that adequate financial and management oversight measures are specified in the contract. After a contract has been awarded, PRNS should assign qualified and sufficient staff to ensure that these safeguards are in fact being enforced.
- R2:** PRNS should reevaluate its Community Center Facility Reuse RFP process, improve the economic attractiveness of the RFP, and then rebid the RFP for JTS Northside CC. PRNS should accept the offer to work with SVCN and CFSV to address the perceived deficiencies the two organizations have identified in the Community Center Facility Reuse RFP process, and should communicate more openly with them, since they are representative of the agencies that are potential PRNS bidders.
- R3:** PRNS should delay recommending a new operator to the City Council for JTS Northside CC until additional bidders have been found through a new RFP.

## Endnotes

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- <sup>1</sup> San Jose City Auditor's Report, June 16, 2006, Summary: *i*.
- <sup>2</sup> City of San Jose Memorandum to City Council from Vice Mayor Cindy Chavez and Council Members David Cortese and Ken Yeager, December 13, 2005.
- <sup>3</sup> San Jose City Auditor's Report, June 16, 2006, Summary: *i*.
- <sup>4</sup> San Jose City Auditor's Report, June 16, 2006, Pages 6–7.
- <sup>5</sup> San Jose City Auditor's Report, June 16, 2006, Fil-Am SODC Finding I: 9.
- <sup>6</sup> City of San Jose Memorandum, December 13, 2005. Op Cit.
- <sup>7</sup> SVCN Letter and Newsletter to San Jose Mayor and City Council, May 15, 2006.
- <sup>8</sup> City of San Jose Request For Proposal (RFP) to Operate JTS Northside CC, August 11, 2006.
- <sup>9</sup> City of San Jose PRNS Press Release, August 11, 2006.
- <sup>10</sup> *San Jose Mercury News*, newspaper advertisement, August 15, 2006.
- <sup>11</sup> *Almaden Times*, newspaper advertisement, August 18–24, 2006.
- <sup>12</sup> *San Jose Metro*, newspaper advertisement, August 16-22, 2006.
- <sup>13</sup> SVCN *Statement on the City of San Jose Community Center ReUse Strategy*, October 16, 2006.
- <sup>14</sup> SVCN Letter and Newsletter to San Jose Mayor and City Council, May 15, 2005.
- <sup>15</sup> Ibid.
- <sup>16</sup> City of San Jose City Request for Proposal (RFP) To Operate JTS Northside CC, October 23, 2006.
- <sup>17</sup> CFSV Letter to the Honorable Mayor Ron Gonzales, re: City of San Jose Facility Re-Use Strategy, May 15, 2006.

**PASSED** and **ADOPTED** by the Santa Clara County Civil Grand Jury on this 12<sup>th</sup> day of December 2006.

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Ronald R. Layman  
Foreperson

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David M. Burnham  
Foreperson Pro tem

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Kathryn C. Philp  
Secretary

## **Bibliography**

Memorandum to City Council from Vice Mayor and Council Member Cindy Chavez, Council Members David Cortese and Ken Yeager, December 13, 2005: 3.13.

San Jose City Auditor's Report, June 16, 2006.

SVCN Newsletter, May 15, 2006.

PRNS Request For Proposals (RFP) To Operate and Maintain and Provide Services at JTS Northside CC, August 11, 2006.

PRNS Request For Proposal (RFP) To Operate and Maintain and Provide Services at JTS Northside CC, October 23, 2006.

City of San Jose PRNS Press Release, August 11, 2006.

*San Jose Mercury News*, newspaper advertisement, August 15, 2006.

*Almaden Times*, newspaper advertisement August 18–24 Edition, 2006.

*San Jose Metro*, newspaper advertisement, August 11, 2006.

CFSV Letter to the Mayor and San Jose City Council on the City of San Jose Facility Re-Use Strategy, May 15, 2006.

SVCN Statement on the City of San Jose Community Center ReUse Strategy, October 16, 2006.

## **Visitations and Interviews**

**On September 1, 2006**, the Grand Jury interviewed the Acting Assistant Director of Parks, Recreation, and Neighborhood Services and the Deputy Director of the Administrative Services Division.

**On September 20, 2006**, the Grand Jury conducted a second clarification interview with the Deputy Director of the Administrative Services Division.

**On November 22, 2006**, the Grand Jury met with the Director of Parks, Recreation, and Neighborhood Services and the Deputy Director of the Administrative Services Division, who is also the Acting Assistant Director.

**On December 12, 2006**, the Grand Jury met with the Director of Parks, Recreation, and Neighborhood Services and the Deputy Director of the Administrative Services Division, who is also the Acting Assistant Director.

## **Acronyms**

AACI	Asian Americans for Community Involvement
AARS	Asian American Recovery Services, Inc.
CFSV	Community Foundation Silicon Valley
Fil-Am SODC	Filipino-American Senior Opportunities Development Council
FYC	Filipino Youth Coalition
JTS Northside CC	Jacinto “Tony” Siquig Northside Community Center
PRNS	Parks, Recreation, and Neighborhood Services Department
RFP	Request for Proposal
SVCN	Silicon Valley Council of Nonprofits