

August 26, 2005

Judge Allan Hardcastle
Presiding Judge of the Superior Court
Hall of Justice
P. O. Box 5109
Santa Rosa, CA 95402

Re: Response to 2004-2005 Sonoma County Grand Jury Report

This letter responds to the findings and recommendations contained in the 2004-05 Sonoma County Grand Jury Final Report. The Sonoma City Manager was asked to respond to the following reports, findings and recommendations:

- Conflict of Interest Codes in Sonoma County – R1, R4 and R5
- A Disaster Waiting to Happen – F3, F4, F9, F10, and F13

Conflict of Interest Codes in Sonoma County

Recommendation R1 – Adopt an Incompatible Activities List

Each commission, board and public agency should have their own Incompatibility Activities list as a supplemental resource. This list would assist the officials in understanding how to avoid conflict-of-interest issues, enhance the assurance of public trust—the integrity of officials—and political processes as well. The following is a sample of the type of list the grand jury recommends:

Incompatible Activities – Sample List

- 1. Cannot have an interest in a contract made by the board, commission or committee that one is involved with.*
- 2. Cannot request, receive or agree to receive anything of value or other advantages in exchange for a decision.*
- 3. Cannot influence decisions relating to potential business or prospective employers.*
- 4. May not acquire property interests within redevelopment areas over which one has decision-making influence.*
- 5. Cannot receive compensation from third parties for speaking, writing an article or attending a conference.*
- 6. Cannot use public agency resources (money, travel expenses, staff time and agency equipment) for personal or political purposes.*
- 7. Cannot participate in decisions that may affect (positively or negatively) their personal interests, interests of their immediate family or their business partners.*

Response

The Sonoma City Clerk provides newly elected Councilmembers a “Councilmember Handbook” that includes the City’s Code of Ethics and Values, the *Local Official’s Guide to Ethics Laws* published by the Institute for Local Self Government, *Can I Vote? An Overview of Public*

Officials' Obligations under the Political Reform Act's Conflict-of Interest Rules, published by the FPPC, the City's Conflict of Interest Code and the Brown Act. Newly appointed members of all City boards and commissions receive the City's Conflict of Interest Code, Code of Ethics and Values and the FPPC *Can I Vote?* pamphlet.

On a regular basis, the City Clerk distributes to Councilmembers and members of boards and commissions, pamphlets and articles published by the Institute for Local Self Government and the League of California Cities.

Recommendation R4 – Institute regular, mandatory training

- *Provide Designated Filers with basic informational training.*
- *Increase utilization of FPPC for training of Form 700 Filing Officers and Clerks*
- *Require Code of Ethics training at the city and county level as similar to that as mandated by state agencies (available online).*
- *Require basic conflict-of-interest training for:*
 - *Incumbent elected and appointed officials*
 - *New appointees and elected officials*

Response

Every two years or so, the City Attorney provides a training session, mandatory for Councilmembers and board and commission members, that covers issues including conflict of interest, incompatible activities bias, procedural due process and fiduciary duties. As noted above, there are a number of pamphlets that are distributed from time to time to elected and appointed officials.

All new Councilmembers over the last several years have attended the League of California Cities Mayors and Councilmembers Institute, which includes in its curriculum extensive presentations on ethics and conflict of interest issues. All Councilmembers receive the League of Cities' monthly magazine, *Western City*, which over the last year has featured articles addressing ethical issues.

On an ongoing basis, the City Clerk provides candidates for elective office, new and incumbent Councilmembers, new and incumbent members of boards and commissions, and new and incumbent affected employees with all required notices, reporting forms and information documents required by City and State conflict of interest regulations.

Recommendation R5 – Re-file Form 700 on a material change

Sonoma County administration and respective cities in Sonoma County should require Designated Filers to file amendments to Form 700 with clerks of the county or city within 30 days of a material change. "Material Change" is defined in Government Code Section 87103.

Response

There is no current legal requirement that Form 700 be amended other than on the required reporting date. Also, it appears that the "material changes" referenced by the Grand Jury appear to be threshold amounts relative to whether or not a public official has an "economic interest" for purposes of conflict of interest analysis which may be different from threshold amounts for certain interest for purposes of Form 700. Before implementing this recommendation, further review would be required to consider both practical problems associated with it and the extent of public benefit that would be derived from the substantial additional administrative burden, given the fact that there is a current requirement for public officials, when a decision comes before them, to make a determination as to whether or not at that point in time there exists a conflict of interest irrespective of Form 700 reporting.

A Disaster Waiting to Happen

Finding F3.

Written plans and checklists are not consistent among county, cities, agencies, and departments, and in some cases are non-existent.

Response

Differences in the capabilities, resources, and risk factors between Sonoma County and its nine cities suggest that each agency's plan need not be the same in scope and detail.

Coordination of the efforts of each agency occurs through their participation in the Sonoma County/Operational Area Emergency Coordinators Forum and Emergency Council. Sonoma has exercised its EOC and participated in countywide emergency management training. The City of Sonoma has good working relationships with the County as the lead agency in this Operational Area.

Finding F4.

Where plans and checklists do exist, they are not always stored in multiple safe places for guaranteed access in the event of a disaster. The most common place is "the office, notwithstanding that a disaster does not limit itself to regular work hours, and office buildings may not be accessible!

Response

Generally, duplicate copies of plans and checklists are stored in the Emergency Operations Center and in staff offices. Consideration of the location of back-up copies of key emergency response documents will be undertaken during future preparedness reviews.

Finding F9.

All county employees are listed as disaster recovery resources, as indeed are members of the grand jury, but there is no clear plan on how they will report in for duty, or how they will be used.

Response

No comment since this finding refers to County rather than City of Sonoma employees.

Finding F10

The city plans are not consistent in scope and detail. The City of Santa Rosa has a well-structured but dated plan. Cotati's plan is literally a copy of the county plan, Cloverdale is still using the 1989 two volume door-stopper plan that existed before the adoption of SEMS, and Healdsburg's plan is dated 1987. See Exhibit D for a table comparing the format and date of the county and city plans.

Response

See response at F3, above

Finding F13.

There is an agreement dated 1997, between the cities and the county, promising help from the county for the construction of, training in, and testing of city-based disaster plans. This assistance is not provided, nor sought on a continually consistent basis, despite the payment of a \$2000 annual fee by the cities.

Response

Sonoma County staff coordinates multi-jurisdictional training in which City of Sonoma staff have participated. County staff has been consistently responsive to requests for advice and assistance with respect to emergency plans and preparedness from the City of Sonoma.

Recommendation 3 – Each city council should:

- *Initiate an annual review of its disaster plan, coincident with the budget cycle, starting with the 2006-2007 cycle. These reviews should include the following tasks as a minimum:*
 - *Examine status of the actions from the previous year's review.*
 - *Review any tests during the year and any plan changes required as a result of the tests ("no change" is an unlikely outcome).*
 - *Request detail of any changes to the plan occasioned by known state, national or world emergencies that occurred in the review year.*
 - *Request detail of any changes to the plan required by directives from the Department of Homeland Security (with due regard to any security and secrecy requirements).*
 - *Concur by vote, that the review has been completed successfully.*

Response

City staff reviews the disaster plan on a periodic basis and makes adjustments as needed to improve efficiency or in response to exercises, current events and new regulations. Additional resources that may be needed to implement modifications to the plan, or to the City's emergency response capabilities, are brought to the City Council as part of the budget process.

Recommendation 5 – The Board of Supervisors and each city council, should:

- *Demand that plans be put in place to ensure that all existing employees have been or will be trained in SEMS and the Emergency Recovery Plan for the county, and/or their city. The training should be completed by year-end 2005.*
- *Document the reporting steps employees must take as support individuals in the event of a disaster.*
- *Endorse that the most effective use of most employees is to focus on business resumption.*

Response

The City conducts periodic orientation and tabletop field training exercises in SEMS responsibilities. The City's emergency plan documents the roles and reporting relationships of various staff members.

While business resumption is an important priority and is considered in basic operations planning, the first priority in the City's response to an emergency situation is the protection of public lives and safety.

Very truly yours,

Michael Fuson
City Manager

cc: Mayor and Councilmembers
City Clerk