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J. Hardcastle
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Board of Supervisors

September 16, 2005

City Council

Jake Mackenzie
Mayor

Vicki Vidak-Martinez
Vice-Mayor

Amie L. Breeze
Armando F. Flores
Tim Smith
Council Members

Stephen R. Donley
City Manager

Judy Hauff
City Clerk

Michelle Marchetta Kenyon
City Attorney

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 is in response to the recommendations and findings contained in the 2004-05 Sonoma County Grand Jury Final Report. Pursuant to Section 933 of the Penal Code and on behalf of the City Council of the City of Rohnert Park, I have prepared a response to the following sections of the Grand Jury Report:

- Conflict of Interest Codes in Sonoma County – R1, R4 and R5
- A Disaster Waiting to Happen – R3, R5
- Housing Assistance for Sworn Officers – R1, R2, R3

CONFLICT OF INTEREST CODES IN SONOMA COUNTY

In consultation with the City Council and City Attorney, I have prepared the following responses to the Grand Jury's recommendations. This same response has also been submitted by the Rohnert Park City Manager.

R1 Adopt an Incompatible Activities List

The Grand Jury recommended that the City compose a list of prohibited activities for use by elected and appointed officials. The list would prohibit, for example, entry into contracts in which a public official is financially interested, the receipt of anything of value in exchange for a particular governmental decision, and participation in governmental decisions from which the public official may benefit.

State law currently prohibits each of the activities listed in the report. Government Code section 1090 prohibits public officials from being financially interested in contracts made by them in their official capacity or by any body or board of which they are members. The state Political Reform Act, located at

Government Code sections 87100 and following, prohibits public officials from participating in governmental decisions in which they have a financial interest.

These state laws are shared with City Councilmembers upon their assumption of office. In addition, the City provides periodic training to both City Councils and Planning Commissions and one training has already been provided this year to the Rohnert Park Planning Commission. Because incompatible activities already are not permitted under state law, the City does not intend to implement this recommendation. With the dynamic changes in state law, I am concerned that this recommendation could have the unintended consequence of not being in compliant with state law and create confusion between what is stated under the law and how it is restated within an incompatible activities list.

R4 Institute regular, mandatory training

The City Attorney's office currently provides regular training to Councilmembers, Planning Commission and staff – and regularly responds to individual requests from elected and appointed officials for advice on conflict of interest matters. The City agrees with providing regular training and will continue this practice. Training occurs at regularly scheduled City Council or Planning Commission meetings. The City does not see a need to make specifically the training attendance mandatory since attendance at these meetings is already mandatory.

R5 Re-file Form 700 on a material change

State law requires that designated public officials and employees file an annual "Statement of Economic Interest." The Grand Jury recommends that the City require all designated filers of "Statements of Economic Interest" to file amendments to Form 700 within 30 days of a "material change" to his or her economic interests. State law currently requires that a "Statement of Economic Interest" be filed upon assumption of office, annually while holding office or designated positions, and upon leaving office or a designated position (Gov. Code section 87302). The City recently updated the Conflict of Interest section of its Municipal Code in December 2004 to ensure compliance with state laws and that all applicable elected and appointed officials were included. The City believes that current state law is sufficient and implementing separate standards may create unintentional confusion resulting from differences between state laws and local regulations.

A DISASTER WAITING TO HAPPEN

In consultation with County officials and City staff, I have prepared the following responses to the Grand Jury's recommendations.

R3 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 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 years.**
- **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: Agree with recommendations. One of the most important roles of the City Council is the oversight of City services and operations. The Grand Jury's recommendations reinforce recent actions made by the City Council. The City Council last adopted a revision to the City's emergency operations plan in April 2005 and will be reviewing this plan every year. The recent, tragic disaster on the Gulf Coast will provide an opportunity for all local jurisdictions to re-evaluate the assumptions that have been made in their plans. Staff has been directed to follow closely the lessons learned from Hurricane Katrina and make appropriate adjustments to the City's Emergency Operations Plan. All of the above Grand Jury recommendations represent "best practices" in the area of disaster preparedness and the City agrees with the implementation of these recommendations.

F4 The Board of Supervisors, and each city council, should:

- **Demand that plans be put in place to ensure 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: Agree with recommendations. The Department of Public Safety has been assigned the role to ensure all city employees are trained in SEMS (Standard Emergency Management System) and NIMS (National Incident Management System). In addition, the City will be adding SEMS/NIMS training and emergency reporting procedures to the orientation process for all new employees. Finally, the City Council recently took action to relocate its

current City Hall to an upgraded building, which will greatly enhance the City's ability resume operations after a disaster.

HOUSING ASSISTANCE FOR SWORN OFFICERS

In consultation with the City Council and City staff, I have prepared the following responses to the Grand Jury's recommendations. Prior to responding specifically to the Grand Jury's recommendations, I would like to clarify some information that does not accurately reflect Rohnert Park's circumstances. The Grand Jury's report indicates that the average take home pay for officers is \$3,000 - \$4,000 a month. In the case of Rohnert Park, this information is not correct. An entry level officer starts at \$5,083 per month and after 3½ years can earn \$6,169 per month (with normal career progression). However, the salary figures do not provide complete information on the compensation of the City's sworn officers. Based on existing specialty pay and using the departmental overtime rate average an additional 4.5 hours of overtime per week, mid and senior level career Public Safety Officers can earn approximately \$109,000 per year; on a monthly basis this amounts to \$9,083.33 per month which is substantially higher than the \$3,000 - \$4,000 per month referenced by the Grand Jury report. This amount increases to approximately \$120,000 per year for Public Safety Sergeants, or \$10,000 per month.

In addition to differences between pay cited in the Grand Jury report and the pay Rohnert Park officers actually receive, there are two more issues described by the Grand Jury that do not represent Rohnert Park's actual situation. These issues are employee vacancy and turnover. First, the Grand Jury report states the following in regards to vacancy:

"Some of the law enforcement agencies have vacancies in excess of 20% of their targeted headcount."

While Rohnert Park was not specifically mentioned in this statement, I believe it is important for me to clarify that at the present time, the City has zero (0) vacancies for its Public Safety Officer position. Due to the size of our workforce and the regular turnover rate from retirement, the City continuously recruits for Public Safety Officers to ensure adequate staffing at this critical position. Second, the Grand Jury report stated the following on recruitment and retention:

"Agencies were having a difficult time recruiting and retaining sworn officers."

Again this statement does not reflect Rohnert Park's recent experience. In the last four years, Rohnert Park has not lost an officer to another agency and as I have indicated above Rohnert Park does not have any current vacancies. Because of the differences I have outlined above between the information

cited by the Grand Jury report and the actual experience of the City of Rohnert Park, it is difficult to respond fully to the Grand Jury's recommendations. However, recruiting and maintaining quality employees that serve the citizens of Rohnert Park is one of the highest priorities of the Rohnert Park City Council and the City is committed to providing compensation to accomplish this effort.

R1 By December 2005 the governing bodies of the county and each city should have:

- **Evaluated the housing needs for sworn officers, targeting the entry-level officer**
- **Appointed a liaison to local banks and lending institutions to begin dialogues outlining possible solutions.**

Response: Partially disagree with recommendations. The City of Rohnert Park has been engaged in an ongoing dialogue with the union representing its sworn officers on how to enhance its residency allowance to provide a greater incentive for sworn officers to live within the City or within a close proximity to the City. The City has already started and fully intends to complete an evaluation of the housing needs of sworn officers. In addition the City has pursued other avenues for providing affordable housing such as:

- adopting an inclusionary housing ordinance requiring the each new housing development to set aside 15% of its units toward affordable housing,
- using redevelopment agency funds to develop affordable housing units, and
- working with specific plan developers to provide priority for public employees (e.g., teachers, officers, etc.) to purchase/rent new housing.

Over the last two years, these efforts have resulted in the establishment of approximately 97 affordable housing units. However, the City does not plan on implementing an employee housing program by working with banks and lending institutions as recommended. The primary reason for this decision is the fact that the City had implemented a first-time home buyer program and found it to be an ineffective method of maintaining affordable housing. During the course of the program, the City noticed a turnover of nearly 2/3 of the loans it financed. This resulted in a substantial amount of city resources dedicated toward little results other than providing certain individuals the opportunity to achieve home equity on an entry level home, which resulted in many recipients repaying the City's loan to cash out their equity (by selling their home or refinancing) despite penalties imposed by the City. Numerous adjustments to the City's programs made in conjunction with recommendations with local lenders proved ineffective in maintaining the housing affordability desired by the City while adequately securing the taxpayer's financial interests. As a result, the City has shifted its affordable housing efforts to the initiatives listed above.

R2 By February 2006 the governing bodies of the county and each city will have established qualification criteria for each program, and the nature of the investment protection.

Response: Disagree with recommendation. Please refer to response in R1.

R3 By December 2006 an evaluation will have been designed and used to determine the effectiveness of the new program(s).

Response: Disagree with recommendation. Please refer to response in R1.

CONCLUSION

This concludes my response to the Grand Jury report as required under Section 933 of the Penal Code. Please do not hesitate to contact me if you have any questions regarding this response.

Respectfully submitted,

Jake Mackenzie 
Mayor

cc: Rohnert Park City Council, Rohnert Park City Attorney, Rohnert Park City Manager, Rohnert Park City Clerk, Sonoma County Board of Supervisors