

City of Woodland

CITY COUNCIL

300 FIRST STREET

WOODLAND, CALIFORNIA 95695

(530) 661-5800

FAX: (530) 661-5813

Artemio Pimentel, Mayor
Marlin H. "Skip" Davies, Vice Mayor
Martie L. Dote, Council Member
William L. Marble, Council Member
Tom Stallard, Council Member

September 6, 2011

Honorable David W. Reed
Advising Judge to the Grand Jury
Superior Court of California, Yolo County
725 Court Street
Woodland, CA 95695

Re: City of Woodland Response to the 2010-2011 Grand Jury Report

Dear Judge Reed:

The City of Woodland has carefully reviewed and considered the Findings and Recommendation set forth in the "2010-2011 Yolo Grand Jury Final Report – Woodland Fire Department Emergency Services Fees." This letter shall serve as the official response of the City Council of the City of Woodland ("City") to the Findings and Recommendation of the Yolo County Grand Jury ("Grand Jury").

FINDINGS

F1. City Ordinance No. 1506 deprives "responsible" parties of their due process rights, as the billing process does not provide proper notice or a formal method of contesting findings of responsibility.

The City respectfully disagrees with this finding. Ordinance No. 1506 complies with all applicable constitutional requirements.

F2. "Responsible" parties are treated inequitably, depending on their insurance coverage.

The City respectfully disagrees with this finding in part. The City agrees that Ordinance No. 1506 differentiates between responsible parties with and without insurance coverage. However, this distinction is not "inequitable" or otherwise improper. The City Council has the clear authority to rationally differentiate between those with and without

coverage. Only billing parties with insurance coverage allows the City to target the responsible party without charging him or her directly. This process has a much higher collection rate and charges the fee against an insurance policy that, in many cases, covers these costs with no adverse affect to the policyholder.

Moreover, this finding ignores an important fact. The vast majority of drivers and property owners have insurance. In fact, vehicle insurance is legally required. Lastly, the City believes that it is important to reiterate a major policy basis for this arrangement. As noted on the City's website, the City fears that directly billing responsible parties will disproportionately affect the elderly population, especially those a fixed income, who would likely feel compelled to "help those nice firefighters."¹

F3. Billings are linked to insurance policy language.

The City respectfully disagrees with this finding. Billings are not "linked" to insurance policy language. Pursuant to Ordinance No. 1506 and the City's agreement with its billing contractor, Fire Recovery USA ("FRUSA"), the City charges responsible parties' insurance carriers for emergency services. However, the City does not, and frankly is unable to, review a responsible party's insurance policy language before charging fees. As such, the City does not "link" any billings to specific policy language.

Of course, the City does not dispute that insurance carriers may be more or less likely to pay fees based on whether or not the services provided are covered by an individual policy. However, the City does not "link" billings to insurance policy language. Rather, it charges the responsible party's insurance carrier for the emergency services that were provided.

F4. City Ordinance No. 1506 is a form of double taxation for Woodland property taxpayers.

The City respectfully disagrees with this finding. Ordinance No. 1506 imposes a user fee; it does not impose a tax. As a general rule, the difference between a user fee and a tax is that a user fee is a charge for a service that does not exceed the reasonable cost of providing that service. In this case, Ordinance No. 1506 charges responsible parties for receiving emergency response services. The fees do not exceed the City's costs of providing these services. Therefore, Ordinance No. 1506 does not impose a tax.

F5. The FRUSA contract has not met its financial goals.

The City agrees with this finding. The City has not received the expected amount of revenue from the program. Of course, and as noted in the City response to the Grand Jury's previous report on Ordinance No. 1506, there is very little the City can do to increase the revenue generated by the program. The City cannot charge fees that exceed the City's costs of providing emergency responses by its Fire Department.

F6. Record-keeping by both FRUSA and WFD is inadequate and is not auditable.

¹ See http://cityofwoodland.com/gov/depts/fire/fire_response_billing/default.asp.

The City respectfully disagrees with this finding. Both the City and FRUSA maintain adequate and appropriate records. Moreover, all City departments, including the Woodland Fire Department, conduct and are subject to regular audits. In addition, the City is entitled to audit FRUSA's records regarding the program.

F7. The time it takes WFD personnel to gather and submit pertinent data does not make economic sense given the important public safety demands on their time.

The City respectfully disagrees with this finding for two reasons. First, the City disagrees with this finding because the Grand Jury's admittedly cursory review actually demonstrates a net economic benefit of the program. Given the City's budget difficulties, any net monetary gain from the program helps ensure that the City can continue to provide a first rate Fire Department. Second, the City disagrees with this finding because the Grand Jury's \$100 per incident cost is not documented or otherwise supportable by any information or calculations. It appears to be a guess at the per incident cost of the program. While the City understands and appreciates that the Grand Jury has limited time and information, the City believes that \$100 per incident is an overestimation of the program's true cost. Given that City staff collects and documents emergency response information for other necessary purposes, any City staff time spent collecting FRUSA-specific information is de minimis. Accordingly, the actual economic benefit of the program is much greater than that estimated by the Grand Jury

RECOMMENDATIONS.

R1. Repeal City Ordinance No. 1506 or discontinue its enforcement.

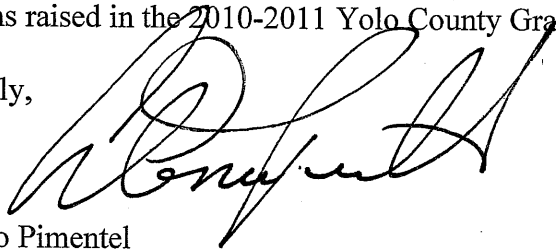
Response: The City Council is currently reviewing Ordinance No. 1506 and will determine whether or not Ordinance No. 1506 should be modified or repealed at the conclusion of that process.

Timing: In progress with a decision expected shortly.

CONCLUSION

The City welcomes and appreciates the Grand Jury's interest in the City's user fee program for emergency services. The City is confident that this letter effectively addresses the concerns raised in the 2010-2011 Yolo County Grand Jury Report.

Sincerely,



Artemio Pimentel
Mayor

cc: Members of the Woodland City Council
Kathleen Jean Stock, Foreperson

RESPONSE TO GRAND JURY REPORT

The governance of responses to the Grand Jury Final Report is contained in Penal Code §933 and §933.05. Responses must be submitted within 60 or 90 days. Elected officials must respond within sixty (60) days, governing bodies (for example, the Board of Supervisors) must respond within ninety (90) days. Please submit all responses in writing and digital format to the Presiding Judge and the Grand Jury Foreperson.

Report Title: Woodland Fire Department Report Date: June 30, 2011

Response by: Woodland City Council Title: N/A

FINDINGS

I (we) agree with the findings numbered:

F5

I (we) disagree wholly or partially with the findings numbered:

F1, F2, F3, F4, F6 and F7

RECOMMENDATIONS

Recommendations numbered: R1 - See Ordinance No. 1532 attached
have been implemented (attach a summary describing the implemented actions).

Recommendations numbered: _____
require further analysis (attach an explanation of the analysis or study, and the time frame for the matter to be prepared by the officer or director of the agency or department being investigated or reviewed; including the governing body where applicable. The time frame shall not exceed six (6) months from the date of the Grand Jury Report).

Recommendations numbered: _____
will not be implemented because they are not warranted and/or are not reasonable (attach an explanation).

Date: 9/6/11 Signed: 

Total number of pages attached 2

ORDINANCE NO. 1532

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WOODLAND, CALIFORNIA REPEALING SECTIONS 9-12 AND 9-13 OF THE WOODLAND MUNICIPAL CODE RELATED TO USER FEES FOR EMERGENCY SERVICES

WHEREAS, the City Council of the City of Woodland adopted Ordinance No. 1506 authorizing the establishment of and imposing user fees for specified emergency response services ("User Fees");

WHEREAS, the City Council no longer desires to impose and collect the User Fees; and

WHEREAS, City Council wishes to repeal the applicable portions of Ordinance No. 1506 and otherwise discontinue the imposition and collection of the User Fees;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF WOODLAND DOES ORDAIN AS FOLLOWS:

Section 1. Recitals. The recitals set forth above are true and correct and are incorporated as though fully set forth herein.

Section 2. Repeal. Sections 9-12 and 9-13 of the Woodland Municipal Code are hereby repealed and of no further force or effect.

Section 3. Repeal. The schedule of fees adopted pursuant to Section 4 of Ordinance No. 1506 is hereby repealed and of no further force or effect.

Section 4. Further Efforts. The City Manager is hereby authorized and directed to take any and all actions necessary to cease the continued imposition and collection of the User Fees, including, but not limited to, terminating any agreements with third party collection vendors. Notwithstanding the foregoing, any User Fees imposed prior to the effective date of this Ordinance shall remain valid and any outstanding amounts owed to the City or any third party collection vendor on the City's behalf for such fees may be billed and collected as permitted by applicable law.

Section 5. Severability. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

Section 6. Effective Date and Publication. The City Clerk shall certify to the adoption of this ordinance and shall cause a summary thereof to be published in the Daily Democrat, a newspaper of general circulation, printed and published in the city of Woodland and county of Yolo, at least five (5) days prior to the meeting at which the proposed ordinance is to be adopted and shall post

a certified copy of the proposed ordinance in the office of the City Clerk, and with fifteen (15) days of its adoption, shall cause a summary of it to be published, including the vote for and against the same, and shall post a certified copy of the adopted ordinance in the office of the City Clerk, in accordance with California Government Code Section 36933. This Ordinance shall take effect thirty (30) days after its adoption.

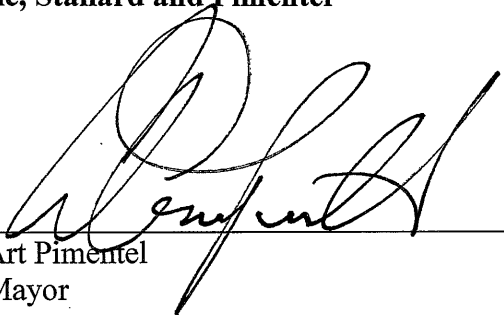
PASSED AND ADOPTED this 6th day of September, 2011 by the following vote:

AYES: Council Members Dote, Marble, Stallard and Pimentel

NOES: Council Member Davies

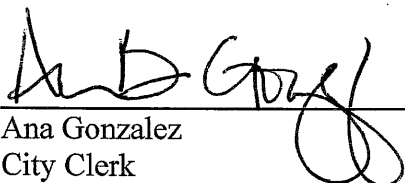
ABSENT: None

ABSTAIN: None




Art Pimentel
Mayor

ATTEST:



Ana Gonzalez
City Clerk

APPROVED AS TO FORM:



Andrew Morris
City Attorney