

August 29, 2012

HAND DELIVERED

The Honorable Richard J. Loftus, Jr.
Presiding Judge
Santa Clara County Superior Court
191 North First Street
San Jose, CA 95113

FILED

SEP 04 2012

DAVID H. YAMASAKI
Chief Executive Officer/Clerk,
Superior Court of CA County of Santa Clara
BY D. ALDYCKI

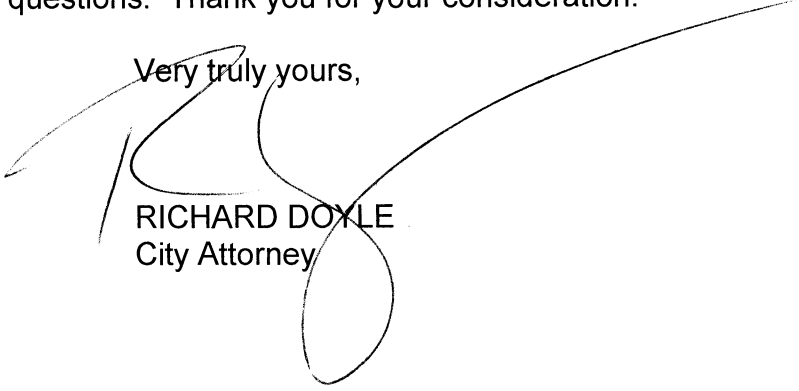
Re: Grand Jury Report

Dear Judge Loftus:

Pursuant to California Penal Code Section 933, please accept the City's response to the 2011-2012 Santa Clara County Civil Grand Jury Report entitled "Veterans Memorial Restoration: Preserving History and Restoring Pride." The approved City response and the Grand Jury's Report are enclosed for your review.

Please contact me if you have any questions. Thank you for your consideration.

Very truly yours,


RICHARD DOYLE
City Attorney

Enclosures

cc: Mayor Chuck Reed
Debra Figone, City Manager
Kim Welsh, Director of Economic Development and Chief Strategist



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kim Walesh

SUBJECT: SEE BELOW

DATE: August 6, 2012

Approved 

Date 8/4/12

SUBJECT: SANTA CLARA COUNTY CIVIL GRAND JURY REPORT: "VETERANS MEMORIAL RESTORATION: PRESERVING HISTORY AND RESTORING PRIDE"

RECOMMENDATION:

It is recommended that the Mayor and City Council approve this response to the 2011-12 Santa Clara County Civil Grand Jury Report entitled "Veterans Memorial Restoration: Preserving History and Restoring Pride."

OUTCOME

Approval of this report will satisfy the requirements of Penal Code Section 933 (c), which requires the City Council to respond to Civil Grand Jury reports to the presiding judge of the Superior Court.

BACKGROUND

Grand Jury Report

The Santa Clara County Civil Grand Jury provided the City with its final report, including findings and recommendations, entitled "Veterans Memorial Restoration: Preserving History and Restoring Pride" (see Attachment A). According to the report:

The Grand Jury sought to determine why the repair (to the Veterans Memorial) took so long and what the City of San Jose's (the City) plan is to mitigate future vandalism.

The Grand Jury report contains three findings with applicable recommendations. The City has responded to each of those findings and recommendations in accordance with California Penal Code Sections 933.05(a) and (b), which states that the responding person or entity shall indicate one of the following with respect to each finding and recommendation:

Finding:

1. The respondent agrees with the finding.
2. The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons thereafter.

Recommendation:

1. The recommendation has been implemented, with a summary regarding the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
3. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer and head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

GRAND JURY FINDINGS RECOMMENDATIONS AND THE CITY'S REPOSE

Grand Jury Finding 1

The restoration plan and project status was not communicated by the OCA consistently and accurately to the public.

City Response to Finding 1

The respondent disagrees partially with the finding. Although the on-site signage at the Veterans Memorial was not kept up to date, the Office of Cultural Affairs reported to City Council and the Mayor on the restoration and project status consistently through publicly-accessible Information Memos issued on January 19, 2011 and on February 24, 2012. Furthermore, updates on the restoration process were provided to the Arts Commission and the Public Art Committee at its regular monthly meetings through verbal and written reports. The Office of Cultural Affairs also provided status updates at public community meetings about memorials and monuments; these two meetings were well attended by veterans as some members of the public have proposed additional veteran-related memorials.

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Grand Jury Recommendation 1

The City of San Jose should regularly communicate public art restoration projects to the public in a timely and accurate manner.

City Response to Recommendation 1

The recommendation has been implemented in accordance with Public Art Program practices. OCA staff provides the Public Art Committee with regular updates of major maintenance projects. As appropriate, status updates are also provided on the site, via public notifications, and through the public art program newsletter. Whenever major public art restoration projects are taking place, OCA staff will continue its regular public reporting practices in a timely way.

Grand Jury Finding 2

OCA recognizes the need for improved security measures, including improved night lighting and security cameras.

City Response to Finding 2

The respondent agrees with the finding.

Grand Jury Recommendation 2

The City of San Jose should give funding priority to providing an adequate security solution for the SJVM.

City Response to Recommendation 2

The recommendation has not yet been implemented, but is substantially in process. OCA has successfully partnered with Adobe, which has its headquarters adjacent to the site of the memorial, to continue its video monitoring of the Veterans Memorial and make those tapes available to the City. Best Electrical Company has agreed to provide in-kind design and installation of new lighting at the Veterans Memorial and OCA has advanced funds for the cost of the fixtures. This work will be completed within six months.

There remains a need to provide dedicated public art staff resources to manage the conservation and maintenance of the public art collection. Due to the General Fund deficit and declining public art revenues, the position dedicated to collection management was eliminated beginning in FY 2011-2012. These responsibilities have been distributed among remaining staff with existing work loads.

Grand Jury Finding 3

Obtaining copyright and licensing rights from the original manufacturer delayed the SJVM restoration project because such terms were not in that contract.

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City Response to Finding 3

The respondent agrees with the finding.

Grand Jury Recommendation 3

The City of San Jose should examine and revise contract language used to purchase public art. The City's goal should be to obtain specific rights to use of license public art designs and/or manufacturing processes, as required by the City, for an indefinite time period.

City Response to Recommendation 3

The recommendation has been implemented. The City's agreement with the manufacturer of the Veterans Memorial glass was executed in 1997, and the City no longer uses that manufacturer nor does it enter into that type of agreement. Public Art contracts uniformly require the City's rights to electronic files for the purposes of restoration and maintenance of public artworks.

PUBLIC OUTREACH

By the very nature of the Grand Jury's report and its release, public outreach requirements have been met. Additionally, upon approval of this memorandum by Council, the City Attorney will submit the memorandum to the presiding judge of the Superior Court.

COORDINATION

This memorandum was coordinated with the City Attorney's Office.

CEQA

Not a Project, File No PP10-069(a), Staff report.

/s/

KIM WALESH
Director of Economic Development
Chief Strategist

For questions please contact Director of Cultural Affairs Kerry Adams Hapner at 793- 4333.

Attachment A: Santa Clara County Civil Grand Jury Report on Veterans Memorial Restoration