

WOODLAND FIRE DEPARTMENT EMERGENCY SERVICES FEES

SUMMARY

The City of Woodland initiated an emergency services cost recovery fee (Ordinance No. 1506) in 2009 that disproportionately impacts its taxpayers and visitors based on the type of insurance they carry. The City has only received about 20% of the recovery fee revenues it anticipated when the program was started. The recovery fee is poor public policy. The Grand Jury recommends the discontinuation or repeal of the ordinance.

REASON FOR REVIEW

Penal Code section 925(a) states “The grand jury may at any time examine the books and records of any incorporated city or joint powers agency located in the county. In addition to any other investigatory powers granted by this chapter, the grand jury may investigate departments, functions, and the method or system of performing the duties of any such city or joint powers agency and make such recommendations as it may deem proper and fit.”

The 2009–10 Grand Jury reviewed the revenue recovery programs for emergency services provided by the Woodland Fire Department (WFD). The City of Woodland (City) disagreed with many of that Grand Jury’s concerns about the program. (The City’s response is contained in the Appendix to this report.) The 2010–11 Grand Jury determined that additional investigation was warranted.

ACTIONS TAKEN

The Grand Jury interviewed WFD officers, Yolo County officials, and representatives of Fire Recovery USA (FRUSA), the contracted fee recovery firm. The Grand Jury reviewed Woodland City Council meeting records from all of 2010, City Ordinance No. 1506 and FRUSA contracts, run studies (incident reports) and claim payment records. The Grand Jury reviewed WFD claims filed with FRUSA and related internal records covering July 2009 through February 2011.

WHAT THE JURY DETERMINED

On June 2, 2009 the Woodland City Council passed an urgency ordinance (Number 1506) that established a recovery fee for emergency services provided by the WFD. The ordinance took effect on July 1, 2009. The impetus for the ordinance was an opportunity to enhance revenue to the City in the midst of severe budget reductions. The WFD’s budget was

reduced by \$167,000 in Fiscal Year 2009–10 and the City loaned WFD that amount in anticipation of gaining “backfill” revenue from the new recovery fee.

City Ordinance No.1506 states, “The City may establish and impose user fees for services provided by the Woodland Fire Department in responding to the scene of any incident, including but not limited to motor vehicle accidents, structure fires, and hazardous material spills. The fees shall vary based on the type and amount of service provided, and shall take into account the cost of personnel, supplies, and equipment present or used at the scene.”

The recovery fee is charged to at-fault drivers involved in motor vehicle accidents, owners of properties involved in structure fires, persons responsible for hazardous materials spills, and all others responsible for certain incidents requiring a response by WFD personnel.

“Responsible” parties are not notified directly of their obligation to reimburse the City for WFD costs. Instead, billings are sent directly to the parties’ insurance carriers. Although the insurance carriers are billed directly, the insurance carriers have no obligation to provide coverage or make payments unless the insured is personally responsible for the damages suffered by the City. Although the insurance company is billed, the claim is really against the insured.

The City and WFD do not make a determination of fault, instead the “responsible” party’s insurance company decides fault. There is no public mechanism for the insured to contest fault.

No attempt is made to collect money from “responsible” parties who lack insurance coverage. Only “responsible” parties with specific insurance coverage are held financially accountable.

Billings are linked to the language of the insurance policies of the “responsible” parties. Some insurance policies provide coverage for scene safety, traffic control, or scene clean up. Therefore incident reports and billings match this insurance language. For example, to clean up any amount of hazardous waste, such as roadway oil, the City may charge between \$495 to \$2,500.

WFD is only funded by City property taxes. City Ordinance No. 1506 requires “responsible” City taxpayers to pay for WFD services a second time.

Some officials also expressed concern regarding the inherent inequality of the program that treats residents and visitors differently based on the type of insurance they happen to carry. One official forecasts the demise of the program based on this inequality.

Under its contract with the City, FRUSA is entitled to retain 20% of all money recovered from insurance carriers. Although FRUSA publicly states it limits its current fee to 17%, analysis of run data shows that FRUSA has, in fact, been retaining 20% since early 2010. The balance recovered is sent to the City General Fund.

In 2009, FRUSA and the WFD collaborated on a fee justification study that estimated annual billings of approximately \$167,000 by the WFD. In various subsequent documents, FRUSA stated it anticipated collection rates of 60%, 70% and 75%. If realized, FRUSA would have collected \$100,000 to \$125,000, yielding the City \$80,000 to \$100,000 a year. For the first 20 months of the contract, however, the actual billings submitted by the WFD were \$71,000, or 43% of the estimate. Only \$55,000 has been received by the City to date. Annualized, net earnings are about 20% of the \$167,000 originally projected.

The Grand Jury determined the financial documents received from the WFD and FRUSA contained contradictory and incomplete information. The Grand Jury was unable to corroborate the validity of billings and payments, as the data do not match.

The Grand Jury determined that the City implemented the program to recoup the costs WFD would incur and to make up for the budget deficit. The term “found money” was used to describe the City’s attitude about the program. This suggests that there is no cost to WFD to implement No. 1506.

In light of these “found money” comments, the Grand Jury sought to perform a cursory cost/benefit analysis of the program. The Captain at the incident scene is responsible for taking information including the accident description, details of the call and the services WFD provided, and insurance information. The Captain submits the information to a Battalion Chief for approval. After the approval, the information is entered into the FRUSA website. Average annual salary and benefits for a Captain is about \$75,000. Average annual salary and benefits for a Battalion Chief is about \$100,000. WFD administrative personnel are responsible for coordinating the follow-up with FRUSA and keeping internal records. Average salary and benefits for a Clerk II is about \$42,000.

There were 265 incidents reported through February 2011. If an estimated cost were only \$100 per incident, the cost for the program would be \$26,500. The City collected, over 20 months, approximately \$55,000. The net benefit to the City, over this 20-month period, would be \$28,500. When compared to the estimated billing of \$167,000 that was anticipated in a 12 month period (annually), relatively little money has been “found” in this program.

A study is underway to consider consolidating the Woodland, Davis, West Sacramento, and UC Davis fire districts under a single administrative unit. Woodland is the only district of these that has the recovery fee for emergency services. At least one other municipality in Yolo County has considered adopting the fee, but has put its plans on hold, pending the outcome of the study.

Senate Bill (SB) 49 is now pending in the California Legislature. SB49 would ban a local government from charging a fee or tax to any person, regardless of the person’s residency, for the costs related to dispatching an emergency responder.

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.
- F2.** “Responsible” parties are treated inequitably, depending upon their insurance coverage.
- F3.** Billings are linked to insurance policy language.
- F4.** City Ordinance No. 1506 is a form of double taxation for Woodland property taxpayers.
- F5.** The FRUSA contract has not met its financial goals.
- F6.** Record-keeping by both FRUSA and WFD is inadequate and is not auditable.
- 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.

RECOMMENDATION

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

REQUEST FOR RESPONSES:

Pursuant to California Penal Code Sections 933(c) and 933.05, the Grand Jury requests a response as follows:

From the following governing body:

- Woodland City Council, Findings F1 through F7, Recommendation R1