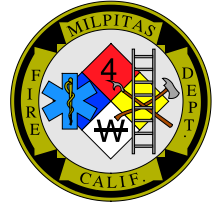


MEMORANDUM

Milpitas Fire Department



DATE: May 21, 2021

TO: Mayor and Councilmembers

THROUGH: Steve McHarris, City Manager *Steve McHarris*

FROM: Rick Frawley, Acting Fire Chief

SUBJECT: **Additional Information – Proposed Fire Prevention Reorganization and Elimination of the Chief Fire Enforcement Officer Position**

This memorandum provides additional information and clarification to information provided at the May 11, 2021 Budget Study Session regarding the proposed Fire Prevention Division (Division) reorganization and the elimination of the Chief Fire Enforcement Officer position (Position) as recommended in the FY 2021-22 Proposed Budget. With the elimination of the position a standard service delivery model is proposed, at a lower cost and without impact to the service level.

FY 2021-22 Proposed Budget Development

As part of the development of the FY 2021-22 Proposed Budget, the Fire Department (Department) was asked, like all other departments, to reduce its expenditures by about 4.6% or \$1.3 million. Additionally, pursuant to the Council approved Fiscal Policies, Fiscal Policy Statement #14, which states in part that "User fees will be reviewed annually for potential adjustments to recover the full cost of services," the Finance Department asked the Planning and Fire Departments to review expenditures related to development services activities to improve cost recovery levels. Given the economic impact caused by the Pandemic, staff did not intend to bring forward a recommendation to increase fees in order to cover the majority of budgeted expenditures related to development services activities in the Planning Department or the Fire Prevention Division.

With the recommended elimination of the Position, the cost recovery level for FY 2021-22 is improved from 66% to 75% without impact to service delivery to our residents and businesses. Typically, development services related activities are at a minimum of 75% cost recovery up to full cost recovery. Further, in comparison to FY 2016-17, when the Position was added to the Division mid-year, the dedicated position count for the Division was 8 FTEs and in this Proposed Budget it is 13 FTEs which includes an Assistant Fire Marshall position. The Assistant Fire Marshall position was added as part of the approval of the FY 2018-19 Adopted Budget.

Chief Fire Enforcement Officer position

The Chief Fire Enforcement Officer position, which was intended to be substantially cost recovery, was approved by a former City Council in January 2017. However, the only revenue which is directly associated with the position are fines related to non-compliance of the Fire Code. Fines generated by the Position peaked in FY 2017-18 with approximately \$35,000 and tapered off to \$6,000 in FY 2019-20 with no fines collected for the current year as of April 30, 2021. This Position also completes permit and inspection activities, which generate revenue; however, these activities are also completed by Fire Prevention Inspection positions at a lower cost.

The Position, which is unique for comparable Fire Prevention functions in other agencies as it requires a peace officer certification, performs several duties including fire cause/determination, arson, environmental, and hazmat investigations. During the last two calendar years, the Position investigated an average of 35 cases annually. Since the creation of the Position in 2017, the Position only had to investigate one criminal case related to an arson investigation. Given the low number of criminal arson investigations, it is more efficient to work with the Milpitas Police Department (MPD) taking advantage of MPD's deep experience in investigating criminal cases. This collaboration between the two public safety departments is the standard model for criminal arson investigations in the State.

The majority of the Position's duties such as fire code/statutory compliance and enforcement and fire-life safety/technical inspections are shared with Fire Prevention Inspector positions. Currently, the Fire Prevention Division has four such positions, of which three are filled and the fourth is scheduled for recruitment. For FY 2021-22, the top salary including benefits for a Fire Prevention Inspector position amounts to \$292,389 versus \$348,212 for the Chief Fire Enforcement Officer position. Therefore, shifting the inspection work to the Fire Prevention Inspector positions is more cost-effective.

During the Pandemic the focus for the position shifted from Fire Code inspections and compliance activity (392 cases in 2019) to enforcement of the Santa Clara County public health orders (SCCPHO) combined with Fire Code inspections and compliance activity (210 cases in 2020). It is important to note that the City of Milpitas was the only City in the County to enforce SCCPHOs. All other cities relied on the County for the enforcement. Further, due to the Pandemic fewer businesses were open, thus requiring fewer inspections. With the lifting of restrictions, the enforcement of SCCPHO is expected to be minimal and will be shifted to the County.

Additionally, the incumbent in the Position assisted the Milpitas Police Department and the Santa Clara County Sheriff Department during the SCU Lightning Fire Complex with hazard notification of residents in the hillside area of Milpitas and neighboring unincorporated areas. Typically, these notifications are handled by law enforcement agencies.

Status of Reorganization

The Fire Department will finalize the Fire Prevention reorganization by mid-June. The reorganization builds on previous standard operating procedures that were in place prior to the creation of the Position four years ago and will be updated as necessary. Within the Public Safety City Service Area structure, the Fire and Police Departments are collaborating to restructure service delivery for criminal arson and other cases. The training of Fire Prevention inspection staff for fire investigation duties has been ongoing with initial levels of training to be completed by May 29th. During the transitional period of this reorganization, depending on the development services activity level, overtime may be incurred, which is fully cost-recovery.

Conclusion

The proposed reorganization of the Fire Prevention Division, which includes the elimination of the Chief Fire Enforcement Officer position, will significantly improve the cost recovery level of the Division consistent with established policy. The reorganization provides for combining resources and expertise from the Fire and Police Departments, as needed, versus relying on a unique position and shifts nearly all duties to lower cost positions in the Division. With this reorganization, the standard service delivery model will be implemented at a lower cost and without impact to the service level.