



THE CITY OF SAN DIEGO
COUNCIL PRESIDENT MYRTLE COLE

FOURTH DISTRICT

June 30, 2017

Judge Jeffrey B. Barton
Presiding Judge
San Diego Superior Court
220 West Broadway
San Diego, CA 92101

Re: Grand Jury Report: "Broken Garbage Cans, City Apathy, Free Cans for a Few - What a Mess"

Dear Judge Barton:

Pursuant to California Penal Code Section 933.05(a), (b) and (c), the City of San Diego provides the attached response from the City Council to the applicable findings and recommendations included in the above referenced Grand Jury Report.

If you require additional information or have any questions, please contact Erin Demorest, Director of Legislative Affairs, at 619-533-3920.

Sincerely,

Myrtle Cole

Myrtle Cole

Encl: 1. City response to Grand Jury Report: "Broken Garbage Cans, City Apathy, Free Cans for a Few What a Mess"
2. City Council Resolution R-2017-657

**City Council Response to
San Diego County Grand Jury Report Titled
“Broken Garbage Cans, City Apathy, Free Cans for a Few – What a Mess!”**

Pursuant to California Penal Code section 933(c), the San Diego City Council provides the following responses for the findings and recommendations to the City Council that are included in the above referenced Grand Jury Report:

FINDINGS 01 THROUGH 02

Below are the City Council's responses to Findings 01 through 02:

Finding 01: *Some San Diego City Councilmembers are using questionable procedures to provide free replacement refuse bins that appear to violate Council Policy 100-06 and Waste Management Regulation R-009-10.*

Response: The City Council partially disagrees with the Grand Jury's finding.

The lack of clear understanding of the nature of the transactions by various offices and departments led to the provision of replacement bins without the existence of a formal citywide program. These transactions were discontinued in October 2016 and are no longer occurring.

Finding 02: *Programs used by three San Diego City Council districts to provide free replacement refuse bins are inequitable.*

Response: The City Council partially disagrees with the Grand Jury's finding.

We agree that the lack of a formal citywide program for low-income, senior, and disabled individuals could lead to inequities. However, the Council is not aware of any intention to create inequities. The purpose of providing the replacement bins was to assist citizens based on need.

RECOMMENDATIONS 17-11 THROUGH 17-13

Below are the City Council's responses to Recommendations 17-11 through 17-13:

Recommendation 17-11: *Amend the Municipal Code to establish procedures whereby severely damaged refuse collection bins beyond their normal service life, as well as any that are destroyed or damaged by collection vehicles, are replaced and delivered at no charge.*

Response: The recommendation will not be implemented because it is not warranted.

The City has numerous priorities, such as public safety, and limited financial capacity at this time. Additionally, providing free replacement bins for all customers who receive free refuse collection service would exacerbate the inequity that the

**City Council Response to
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Grand Jury previously asserted with respect to the People's Ordinance. The 2008/2009 Grand Jury report titled “Time for Repeal of the People's Ordinance” opined that “The Ordinance is inequitable because it provides no-fee trash collection and disposal to some citizens and requires other citizens to pay for the service.”

Recommendation 17-12: *Amend Council Policy 100-06 to more clearly define what CPPS funds can and cannot be used for.*

Response: The recommendation will not be implemented because it is not warranted.

The provisions in the Council Policy with respect to allowable uses are adequate. The issue was with the implementation of the procedures. As stated in the response to Finding 01, a lack of clear understanding of the nature of the transactions by multiple offices and departments led to the provision of replacement bins without the existence of a formal citywide program. See the response to Recommendation 17-13 for discussion on the procedures.

Recommendation 17-13: *Establish a process to provide oversight of CPPS spending.*

Response: The recommendation has been implemented.

Procedures addressing CPPS spending are currently in place. To prevent future issues with CPPS spending from arising, staff has been apprised of the parameters and nuances involved in ensuring that the City-provided services being considered are either an existing program or new program that has been approved by the full City Council – and thus are eligible for CPPS spending. Training will continue in the future for staff from the various offices and departments that are involved in the process.

RESOLUTION NUMBER R- 311211

DATE OF FINAL PASSAGE JUN 27 2017

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE CITY COUNCIL'S RESPONSE TO THE 2016-2017 SAN DIEGO COUNTY GRAND JURY REPORT TITLED "BROKEN GARBAGE CANS, CITY APATHY, FREE CANS FOR A FEW – WHAT A MESS!"

WHEREAS, on March 22, 2017, the 2016-2017 San Diego County Grand Jury (Grand Jury) filed a report titled "Broken Garbage Cans, City Apathy, Free Cans For A Few – What A Mess!"(Report) that requested a response from the City Council (Council) and Mayor; and

WHEREAS, the Report discusses issues related to the aging and replacement of refuse bins, as well as the maintenance of automated refuse collection vehicles; and

WHEREAS, the Report includes seven findings, and three recommendations directed to the Council with four additional recommendation separately directed to the Mayor, which are not addressed in the City's proposed response; and

WHEREAS, under California Penal Code section 933(c), within 90 days after the filing of the report, each public agency which the Grand Jury reviewed, and about which it issued the Report, must comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency; and

WHEREAS, the comments required from the Council are due to be Submitted to the Presiding Judge of the Superior Court by July 31, 2017, as the City requested and received an extension of time to respond; and

WHEREAS, the Grand Jury requested that the Council respond to the recommendations numbered 17-11 through 17-13 in the Report; and

WHEREAS, the Office of the Independent Budget Analyst has proposed a City Council response to the Report as set forth in IBA Report No. 17-22, dated May 26, 2017, for the Council's consideration; and

WHEREAS, on June 7, 2017, the Council Committee on Rules forwarded the proposed response to the full City Council for approval; and

WHEREAS, under Charter section 280(a)(1) this resolution is not subject to veto by the Mayor because this matter is exclusively within the purview of the Council and not affecting the administrative service of the City under the control of the Mayor; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that the Council approves and adopts as its own the response to the 2016-2017 San Diego County Grand Jury Report titled "Broken Garbage Cans, City Apathy, Free Cans for a Few – What a Mess!," as set forth in IBA Report No. 17-22, dated May 26, 2017.

BE IT FURTHER RESOLVED, that the Council President is authorized and directed, on behalf of the San Diego City Council, to execute and deliver the above-described response to the Presiding Judge of the San Diego County Superior Court no later than July 31, 2017.

APPROVED: MARA W. ELLIOTT, City Attorney

By Catherine Morrison
Catherine Morrison
Deputy City Attorney

CCM:jvg
June 12, 2017
Or.Dept: IBA
Doc. No.: 1520981

Passed by the Council of The City of San Diego on JUN 27 2017, by the following vote:

Councilmembers	Yea	Nay	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 27 2017.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER

Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By *Atg Brady*, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R-

311211

Passed by the Council of The City of San Diego on June 27, 2017, by the following vote:

YEAS: **BRY, ZAPF, WARD, COLE, KERSEY, CATE, SHERMAN,**
ALVAREZ, GOMEZ.

NAYS: **NONE.**

NOT PRESENT: **NONE.**

RECUSED: **NONE.**

AUTHENTICATED BY:

KEVIN L. FAULCONER

Mayor of The City of San Diego, California

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(Seal)

By: **Stacy D. Ready**, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of
RESOLUTION NO. **R-311211**, approved on **June 27, 2017**. The date of final
passage is **June 27, 2017**.

ELIZABETH S. MALAND

City Clerk of the City of San Diego, California

(Seal)

By: *Stacy Ready*, Deputy