

RESPONSE TO GRAND JURY REPORT FORM

Report Title: MARIN ON FIRE! Not if, but when.

Report Date: April 1, 2008

Response by: Governing Board, Novato Fire Department

By: Marc Revere, Fire Chief

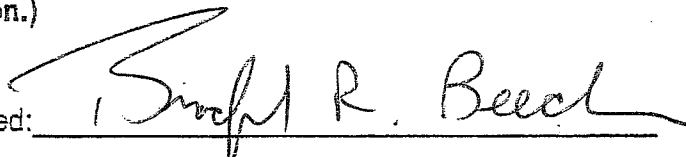
FINDINGS

- I (we) agree with the findings numbered: F3, F9, F12
- I (we) disagree wholly or partially with the findings numbered: F1, F2, F4, F5, F6, F7, F8
(Attach a statement specifying any portions of the findings that are disputed; include an explanation of the reasons therefore.)

RECOMMENDATIONS

- Recommendations numbered R1, R2 have been implemented.
(Attach a summary describing the implemented actions.)
- Recommendations numbered _____ have not yet been implemented, but will be implemented in the future.
(Attach a timeframe for the implementation.)
- Recommendations numbered _____ require further analysis.
(Attach an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or director 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.)
- Recommendations numbered _____ will not be implemented because they are not warranted or are not reasonable.
(Attach an explanation.)

Date: 6/4/2008

Signed: 

Number of pages attached 12

Novato Fire Protection District, Board President



Novato Fire Protection District

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June 5, 2008

Roberta Robinson, Foreperson
2007-08 Marin County Civil Grand Jury
3501 Civic Center Drive, Room #303
San Rafael, Ca 94913-4988

RE: Grand Jury Report – Marin on Fire! Not if, but when

Dear Madame Foreperson:

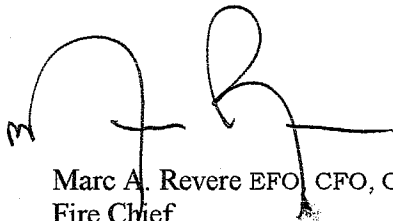
Please find enclosed the Novato Fire Protection District's official response to the Marin County Civil Grand Jury Report Marin on Fire!

As is required under California Penal Code Section 933.05 (b), we are providing the Novato Fire Protection District Board of Directors signed Response to the Grand Jury Form dated June 4, 2008 (F1 through 9, and F 12; and R1 and 2). The following attachments are enclosed:

- Response to Grand Jury Form, signed and dated June 4, 2008
- Findings and Recommendation Response Statements

Should you or the Grand Jury have any questions or need additional information after reviewing the District's response, please feel free to contact me at 415-878-2690.

Sincerely,



Marc A. Revere EFO, CFO, CFC
Fire Chief

adm08025

cc: The Honorable Verna Adams, Marin County Superior Court, P.O. Box 4988 – San Rafael, CA

Review of the Grand Jury Report *MARIN ON FIRE! Not if, but when*, (April 2008) is not supported by references with any empirical data that juror interviewers were provided with by the Novato Fire Protection District (NFD). Such omission of data to support the findings is flawed.

Statements made by the grand jury throughout the report confer judgment as "laypersons" on matters of code enforcement, code content, district resource allocation and policy direction, and public understanding. Such statements undermine the professional expertise and years of wildland fire experience, expended public resources, and public participation throughout the code adoption processes, hearings and proceedings, as well as homeowner and neighborhood association initiative and participation with the NFD's fire fuel reduction programs.

The NFD is of the opinion that the current vegetation management practices, changes to building codes, and code enforcement efforts are making a positive difference. The Grand Jury cited fire history in Marin County. Contrary to that which was cited in the report, fires have been kept to smaller acreage with fewer structural losses since the implementation of the current defensible space practices, community and neighborhood vegetation management programs, and code enforcement efforts.

The heart of the NFD's emphasis and philosophy has been compliance through imparting information and education to the community. Although code enforcement and issuance of citations for UWI compliance is used, it is not the first tool used. This is because optimal compliance can be better achieved through information and education programs with far greater participation, funding, and use of resources, in a positive customer friendly atmosphere.

The following is a response to the findings and recommendations which the NFD was requested to provide:

Findings

F1. Compliance with vegetation management codes and the threat of Wildland fires in Marin are not top-of mind public concerns.

Response: The NFD disagrees wholly or partially with this finding. This statement by the grand jury is false. Out of a survey of Marin County residents responding to a survey of the Marin County Board of Supervisors, found that wildfire in Marin was one of the top concerns of residents. Three countywide surveys (a survey conducted by the Marin County Library, and two tax measure surveys) conducted over the last year indicated that concern over wildfires consistently polls as either the top or second greatest issue of concern of Marin County residents. Furthermore, wildfires that burned in the Lake Tahoe area and southern California last summer raised consciousness about the local threat.

F2. Easily identifiable egregious vegetation management code violations exist throughout Marin County.

Response: The NFD disagrees wholly or partially with this finding. The Grand jury stated that "the problem is very large and difficult" and that "there is no clear cut definition or statewide standard" of what defensible space is.

The California State Fire Marshal in fact does list a definition for defensible space on their official web site. It states:

Defensible space: The area within the perimeter of a parcel where basic wildfire protection practices are implemented, providing the key point of defense from an approaching wildfire or escaping structure fire. The area is characterized by the establishment and maintenance of emergency vehicle access, emergency water reserves, street names and building identification, and fuel modification measures.

The NFD's ordinance 2005-1 specifically addresses Vegetation Management Plan in Section 406 which states:

**SECTION 406
VEGETATION MANAGEMENT PLAN**

406.1 General. When required by the code official, a vegetation management plan shall be prepared.

406.2 Content. The VMP consists of two forms: (1) blue line drawings; and (2) a text narrative describing specific and applicable contributing factors in the selection and design of the plan.

VMP Contents

The VMP shall include at the minimum:

1. The entire "plan content" elements described in narrative form.
2. Not less than three (3) complete plan sets should be submitted to the Code Official for review.
3. The Hazard Assessment Matrix
4. The list of plants to be used and materials consistent with the approved plant list.
5. 3 sets of blue prints showing the house, zone, plant type and spacing.

406.3 Cost. The cost of vegetation management plan preparation and review shall be the responsibility of the applicant.

406.4 Plan retention. The vegetation management plan shall be retained by the code official for the life of the building.

In addition, Section 603 of the Ordinance states:

SECTION 603 DEFENSIBLE SPACE

603.1 Objective. Provisions of this section are intended to modify the fuel load, type, and configuration in areas adjacent to structures to create a defensible space.

603.2 Fuel modification. In order to qualify as a conforming defensible space fuel modification shall be provided as specified in Fire Protection Standards approved by the Chief. Distances specified in Fire Protection Standards may be modified by the code official because of a site-specific analysis based on local conditions and the fire protection plan. Persons owning, leasing, controlling, operating or maintaining buildings or structures requiring defensible spaces are responsible for modifying or removing non fire-resistive vegetation on the property owned, leased or controlled by said person. If the required defensible space requires fuel modification that exceeds the boundaries of the property owned, leased or controlled by said person, said person shall obtain the right to modify or remove non fire-resistive vegetation on the adjacent property to the extent required. If such permission cannot be obtained from adjacent property owners, the building or structure shall be modified to meet construction requirements consistent with the defensible space that can be maintained within the boundaries of the property owned, leased or controlled.

Trees are allowed within the defensible space, provided the horizontal distance between crowns of adjacent trees and crowns of trees and structures, overhead electrical facilities or unmodified fuel is not less than 10 feet. Deadwood and litter shall be regularly removed from trees.

Where ornamental vegetative fuels or cultivated ground cover, such as green grass, ivy, succulents or similar plants are used as ground cover, they are allowed to be within the designated defensible space, provided they do not form a means of transmitting fire from the native growth to any structure.

Finally, the Ordinance goes further to require that the burden of defensible space is a responsibility of the persons owning leasing, controlling operating or maintaining buildings or structures in, upon or adjoining hazardous fire areas. Section 16.1 of the Ordinance states:

SECTION 16 – CLEARANCE OF BRUSH OR VEGETATIVE GROWTH FROM STRUCTURES

16.1 General. Persons owning, leasing, controlling operating or maintaining buildings or structures in, upon or adjoining hazardous fire areas, including on adjacent property over which said person(s) have obtained a right to modify vegetation in conformance with the requirements of this section, shall at all times:

1. Maintain an effective firebreak by removing and clearing away flammable vegetation and combustible growth from areas within 30 feet of such buildings or structures;

Exception: 1. Single specimens of trees, ornamental shrubbery or similar plants used as ground covers, provided that they do not form a means of rapidly transmitting fire from the native growth to any structure.

Exception: 2. If the owner, lessee, or person controlling, operating or maintaining said property cannot obtain the right to modify vegetation on adjacent property, the Chief may order modification of the structures to provide an equivalent condition.

2. Maintain additional fire protection or firebreak by removing brush, flammable vegetation and combustible growth located from 30 feet to 100 feet from such buildings or structures, when required to do so by the Chief because of extra-hazardous conditions causing a firebreak of only 30 feet to be insufficient to provide reasonable fire safety.

Exception: 1. Grass and other vegetation located more than 30 feet from buildings or structures and less than 18 inches in height above the ground need not be removed where necessary to stabilize the soil and prevent erosion.

Exception: 2. If the owner, lessee, or person controlling, operating or maintaining said property cannot obtain the right to modify vegetation on adjacent property, the Chief may order modification of the structures to provide an equivalent condition.

3. Remove portions of trees which extend within 10 feet of the outlet of a chimney.
4. Maintain trees adjacent to or overhanging a building free of deadwood; and
5. Maintain the roof and gutters of a structure free of leaves, needles or other dead vegetative growth.

F3. Homeowners can reduce fire risk by increasing defensible space, which reduces fuel.

Response: The NFD agrees with this finding.

F4. A number of municipalities in Marin have made significant changes in building codes for new construction and major remodels. These new Wildland

Urban Interface codes have little impact on the vast majority of Marin Homeowners.

Response: The NFD disagrees wholly or partially with this finding. The NFD cannot respond to what changes in building codes for new construction and major remodels municipalities have made. The NFD has made significant changes. There is empirical datum collected by the NFD that substantiates those structures within the WUI areas where these codes and Ordinances have been implemented, significant reduction in property loss. i.e. Marion Subdivision.

F5. There is inconsistency in various vegetation management codes throughout the county.

Response: The NFD disagrees wholly or partially with this finding. The NFD has participated and supported a majority of fire agencies in adopting the countywide model WUI Code and Ordinance.

Under the leadership of the NFD Fire Marshal, every jurisdiction adopted Appendix II-A of the 2000 Uniform Fire Code for the last three code cycles (1999, 2002, and 2006). *Appendix II-A Suppression and Control of Hazardous Fire Areas*, governs vegetation management and defensible space for existing properties. Furthermore, other code sections requiring removal of pyrophytic plants within 30 feet of structures and up to 100 feet under special conditions have been part of the amendments to the adopted fire codes county-wide for more than a decade.

The NFD finds this statement unsupported and not substantiated by specific code citations and comparisons.

F6. Most vegetation management codes and homeowner educational materials are difficult to interpret and confusing to the "layman".

Response: The NFD disagrees wholly or partially with this finding. The NFD cannot respond to what other agencies produce in the way of management codes or educational materials no as to how they are implemented or disseminated.

The Novato Fire Protection District was the agency noted in the 2003 Grand Jury Report with exemplary public education programs. One of several components of the District's Homeowner Emergency Action Response Team (HEART) program is the UWI module. The HEART program has been extremely effective when it was previously implemented under the direction of the Districts former Public Educator. This new spirit of implementation has been significantly rejuvenated with the Districts Fire Training Specialist and through matching grant program supervised and managed by the Districts Fire Inspector.

The WUI HEART module instructs residents how to evaluate structural risk using the Standards of the National Fire Protection Association Std. 1144 and the National Wildfire Coordination Group Wildland Home Fire Risk Meter. The District incorporates fire safe landscape tips, annual fire safe maintenance task list, and fire resistant performance based building construction standards into the program.

Collaboration with neighborhoods and organizations such as Marin Conservation Corps, California Department of Forestry and Fire Protection, and Fire Safe Marin, local nurseries, and City of Novato programs such as Novato Independent Elders have proven to be a phenomenal success.

Our approach to vegetation management, fire fuel reduction and creating defensible space is primarily through geographical vegetation management projects, chipper programs, matching grant programs, informational meetings with homeowners and education via local media.

Local neighborhood programs have been implemented focusing on the five areas identified in the Perry reports: Black Point, Green Point, Verissemo Valle, Widlhorse Valley, Indian Valley, Marin Country Club, and Pacheco Valley. In recent years, the District implemented an \$80,000 matching grant vegetation management project in the Bahia area and a \$120,000 matching Bureau of Land Management grant in the Marin County Club area. This was a collaborative effort between the Bahia Homeowner Association, Marin County Club Association, the Mt. Tam Fire Crew, Marin Conservation Corps and the Fire District.

Other information has been disseminated via public service announcements at the Rowland Plaza Cinema. These are revolving slides that remind residents to create defensible space and are shown just prior to Wildland fire season.

The Novato Fire District in conjunction with the CSA #19 and the Marin County Fire Department has cooperated two grants totaling approximately \$150,000. These two projects were implemented in the Iganciao Valley and Big Rock Ridge areas of the Fire District during the fiscal years 2005-2007.

Vegetation management is only one component of creating a Wildland fire safe environment. In 2001, the District developed and adopted Fire Protection Standard 220- Vegetation Fuels Management Plan which is required to be submitted prior to building permit being issued for all buildings that border an urban Wildland interface are within the District. Using a structural "risk assessment matrix", inspectors and plans examiners are able to determine the vegetation clearance requirements for establishing minimum defensible space distances around a structure. This assessment is based on several criterions taken from the National Fire Protection Association Standard 1144 that are value based. Some of the criterion includes aspect, slope, type of fuel with the 0-30 feet zone, and type of fuel within the 31-100 feet zone.

Prior to 2001 the District had required a fuel management plan to be developed and implemented as a planning condition on new subdivisions. However, the District had no developed standard or criteria for determining what is required for an acceptable plan.

Within the defensible zone, plant and specimen selection is critical. While fire fuels must be thinned to remove laddering of the fire from a ground fire to the tree tops, it is just as important to remove brush and plants that have crown to crown continuity so as to separate and "break-up" the fuel load.

Plant selection lists are available via brochures published by the University of California Extension and the East Bay Municipal Utility District. These brochures are disseminated through and available at the Fire District. Plant selection is critical for environmental survivability because vegetation types propagate based on soil type, moisture content and aspect (the solar exposure). These plant recommendations are consistent with the water conservation requirements of the North Marin water District.

The District has been very involved in writing model performance based building codes for residential construction in the Wildland urban interface. The District has been participating at the State level over the past seven years developing performance building standards for construction in the UWI areas of California. Currently we are participating on a State training group with the California State Fire Marshal's Office to develop teach other fire service, planning and building officials, landscape architects, and homeowners fire resistive building construction standards and defensible space "best practices" which have been adopted by the California Building Standards Commission and codified in the California Building Code.

F7. "Best practice" vegetation management policies require fire department access to the whole property in the company of the owner. No jurisdiction has a plan for this.

Response: The NFD disagrees wholly or partially with this finding. The NFD disagrees with this statement. While the NFD cannot comment on what other jurisdictions do, the NFD does conduct surveys and risk assessments in the company of property owners. This includes time spent at the Fire Marshal, Deputy Fire Marshal, Inspector and Engine Company level. The NFD conducts these risk assessments and inspections in the presence of homeowners at the complaint level, with the dissemination of information, property assessments at the request of the homeowner, and during the implementation and inspection of vegetation management plans for new and existing structures.

F8. Not all Marin County Fire jurisdictions proactively inspect for vegetation management code compliance without a complaint or request.

Response: The NFD disagrees wholly or partially with this finding. The NFD cannot respond to what other agencies do. However, as discussed at length in the response to finding F6, the NFD allocates a significant number of current resources to assisting landowners to create defensible space and reduce the fire fuels susceptible to Wildland fire. Weed and brush hazard complaints are received annually by the District and are followed-up by the Fire Inspector. Since the complaints are generally seasonal, the Fire Inspector allocates a preponderance of time to this function during the months of May through October. Complaints are received and logged on a Novato Fire District FP-6 *Hazard Complaint Form* and contact is made with the reporting party within 24 hours of the initial contact.

The heart of the NFD's emphasis and philosophy has been compliance through imparting information and education to the community. Although code enforcement and issuance of citations for UWI compliance is used, it is not the first tool used. This is because optimal compliance can be better achieved through information and education programs with far greater participation, funding, and use of resources, in a positive customer friendly atmosphere.

Weed and brush hazard complaints are received annually by the District and are followed-up by the Fire Inspector. Since the complaints are generally seasonal, the Fire Inspector allocates a preponderance of time to this function during the months of May through October. The number and time allocated to investigate and follow-up complaints are significant. In 1999, the Division investigated and enforced 91 complaints which were primarily handled by the Deputy Fire Marshal and Fire Marshal because there was no full time Fire Inspector at that time.

In 2000, 321 complaints were investigated and corrected. In 2001, 398 were investigated and corrected. In 2002, 313 complaints were investigated and corrected. In years 2000, through 2002, the investigation and follow-up of weed and brush complaints is handled solely by the Fire Inspector. The work in this functional area is in addition to assignments such as fire cause and origin investigation, assisting engine companies in the R-1 inspection program, new construction inspections, plan checks, hazardous material management, training, and assisting with public education. On the average, 232 hours of time was spent per season conducting and performing inspections and enforcement on weed and brush complaints.

Pre-citations, Administrative Citations, and Notice and Orders are written and followed-up by the Deputy Fire Marshal and Fire Marshal. Administrative Hearings for compliance against recalcitrant parties are handled by the Fire Marshal. The Novato Fire District had one Citation and Administrative hearing during the year 2004. Compliance was eventually made with an Administrative Order and judgment by the Hearing Officer.

In instances where the NFD has written citations which were appealed, significant staff hours, legal fees, and delays in further compliance is encumbered. For example, in one administrative citation appeal, the district expended over \$10,000 and more than 40 hours of investigative and administrative hearing hours.

Weed Abatement Inspections and Hours

	Total	2005	2006	2007
Brush and Weed Complaints	Number: Hours:	171 106	218 84	180 83
Fire Hazard Complaints	Number: Hours:	36 35	31 23.5	40 33.75
VMP – Burn Permits	Number: Hours:	4 6	2 2.5	1 1
VMP – Chipper Days	Number: Hours:	2 6	11 15.25	16 17
VMP – Risk Assessments	Number: Hours:	42 101	16 33.25	40 58.5
VMP – Senior Projects	Number: Hours:	11 10.25	2 2.5	2 1
VMP Grant Projects	Number: Hours:	21 67.25	1 3	2 48
Misc.	Number: Hours:	2 0.5	11 3.5	
Total for Weed Abatement	Number: Hours:	254 297.5	261 144	239 160.5

Citations and Administrative Orders

	Total	2005	2006	2007
Citations & Administrative Orders-Complaints	Number: Hours:	1 1	0 0	4 11
Citations & Administrative Orders-Pre-Citations	Number: Hours:	3 3.5	1 3	1 1.5
Citations & Administrative Orders-Case Files	Number: Hours:	5 11	2 2.75	1 1
Citations & Administrative Orders-Notice and Orders	Number: Hours:	2 7	11 15.25	22 17
Total for Administrative and Notice and Orders	Number: Hours:	1 22.5	14 21	40 34.5

Over the period of time from 1998 through 2007, the enforcement provisions contained within the amendment to the Uniform Fire Code were used as the enforcement tool for abatement of violations at properties. This process provides the District authority to notice the property owner to abate the hazard. If the hazard is not abated within the specified time frame, an abatement warrant would be obtained from the Marin County Courts. The property owner would be served with the warrant and the District would then have the ability to retain a contractor to implement the required mitigation measure necessary to abate the violation. The Fire Marshal has not had to initiate litigation or abatement warrant actions to date because of voluntary compliance on the part of property owners. The District prides itself on this record of notice versus compliance and the need not to initiate litigation or write citations.

In 2001, the Fire District adopted Ordinance 2001-1 which establishes a "Code Enforcement Program" providing District ability to issue Citations and assess civil penalties. Although the abatement warrant language still exists in the recently adopted Fire Code, Ordinance 2007-1, there is greater authority and ability for imposing civil penalties and abatement authority under the Code Enforcement Program Ordinance.

In 2007, the District modified the provisions of previous Ordinance to make them more restrictive and apply to areas other than those covered by Appendix IIA UFC within the city and county boundaries of the District that are both urban and in Wildland intermix areas.

F9. Resources for fire jurisdiction inspection and enforcement are limited, and homeowner costs for compliance can be extremely high.

Response: The NFD agrees with this finding.

F12. Significant progress in enforcing vegetation management and defensible space codes will require additional resources and/or a change in direction by governing boards.

Response: The NFD agrees with this statement. NFD provides all risk emergency response to 71 square miles of its service area. The priorities and resources dedicated to each type of risk and response capability to those risks are determined and established by our elected Board of Directors.

The NFD currently has approximately 12,000 parcels located within the "WUI" area of Novato. The Grand Jury Report estimated that there was "roughly 30,000 WUI properties in Marin" County. That equates to approximately one-half of those properties being in the NFD service area.

The report further suggested that it may involve about four hours for an inspector to conduct a single one-on-one parcel inspection for compliance with the

defensible space requirements. The grand jurors suggest that the cost of an inspector and administrative time at an "estimated \$75 per hour". Using these figures, a onetime inspection for the 12,000 Novato service area would cost approximately \$3.6 million dollars.

Recommendations

R1. Governing boards of all fire jurisdictions in Marin County review and update current vegetation management and defensible space codes and homeowner education materials to be certain they are realistic, achievable, enforceable and easily understood by the public at large. The boards should target completion by June 30, 2009.

Response: This recommendation has been implemented. The Novato Fire Protection District already updated its codes and Ordinances. These codes are revised on an ongoing basis every three years by reference to the California Fire Code and the International family of Codes published by International Code Council. This was recently done by Ordinance 2007-1 as part of the California Fire Code triennial code adoption process. The District also adopted Appendix IIA of the Uniform Fire Code which governs hazards associated with Wildland urban interface areas for new and existing parcels.

In addition, the Novato Fire District was a leader in developing Marin's Wildland Urban Interface Codes and spent two years with participation and input from five major fire jurisdictions and two buildings officials developing Ordinance 2005-1 which adopts by reference the 2003 edition of the International Wildland Urban Interface Code with local amendments. This was done in particular to the response to the devastating 2003 NFD firefighter fatality and engine company burn-over at the Cedar incident in southern California as well as to the findings and recommendations in the Governor's Blue Ribbon Commission Report as a result of the 2003 southern California fires.

Applicable provisions of these codes are enforced as they pertain to properties within the Wildland intermix areas of the District. There are approximately 12,000 parcels within the designated WUI area of Novato service area.

The District also enforces provisions of Section 4290 and Section 4291 Public Resources Code in all State Responsibility lands within the Fire District boundaries.

R2. All fire jurisdictions develop plans with specific goals for compliance and enforcement of vegetation management and defensible space codes by June 30, 2009.

Response: This recommendation has been implemented. The NFD has a specific compliance goal of 100% compliance for all inspected occupancies and properties. This philosophy and practice will be the continued goal.

In addition, the NFD has identified all parcels that are within the designated WUI area by geographic neighborhoods. The District will continue the community vegetation management outreach, defensible space code enforcement, WUI HEART modules, matching grants, ignition resistant building construction requirements, and engine company target hazard inspection programs.
