TO: HONORABLE MAYOR and CITY COUNCIL
FROM: J. GORDON PALMER, JR., City Manager
SUBJECT: GRAND JURY CASE NO. 0205 RESPONSE

RECOMMENDATION

Adopt a resolution 1) eliminating the City Manager's authority to award Special
Accomplishment Awards, 2) revising the 2006 Salary Schedule to eliminate the authority of
the City Manager to award Special Accomplishment Awards; 3) approving the City of
Stockton's Response to Grand Jury Report on Case No. 0205, relating to the City of
Stockton Employee Monetary Awards of Public Funds; and 4) directing the City Manager to
sign the response on behalf of the City and to transmit the response to the Presiding Judge
of the Superior Court of San Joaquin County.

SUMMARY

The 2004-2005 Grand Jury investigated personnel matters of the City of Stockton relating to
cash bonuses received by certain City of Stockton employees. In its findings, the Grand
Jury stated, "perceptions of favoritism or monetary rewards for inappropriate reasons
diminish the value" of awards for special accomplishments.

DISCUSSION

Background

Concern over the use of public monies to support employee programs of this nature raises
questions as to the appropriateness of awarding public servants additional compensation
for work performed in the course and scope of regular employment. This type of
government activity will continue to be scrutinized, even in the face of governing rules and
guidelines.

In light of perceived improper use of Special Accomplishment Awards, staff is
recommending that the City Council eliminate the authority of the City Manager to present
Special Accomplishment Awards and that the provision be deleted from the 2006 City of
Stockton Salary Schedule.

Present Situation

Attached is the Grand Jury’s findings and recommendations regarding the allegations.
Pursuant to California Penal Code Section 933.05, which requires a written response to the
presiding judge of the Superior Court within 90 days of the publication of the report, City
staff prepared a response, which is attached to the resolution as "Exhibit A."

Respectfully submitted,

[Signature]
J. GORDON PALMER, JR.
CITY MANAGER

AGENDA ITEM 6.04
May 10, 2006

Presiding Judge
San Joaquin County Superior Court
222 East Weber Avenue
Stockton, California 95202

CITY OF STOCKTON RESPONSE
FINAL REPORT—CASE NO. 0205
CITY OF STOCKTON EMPLOYEE MONETARY AWARDS OF PUBLIC FUNDS

In accordance with section 933.05 of the California Penal Code, the City Council of the City of Stockton responds to the Grand Jury Report on the above-referenced case as follows:

Finding: The Grand Jury has determined that “perceptions of favoritism or monetary rewards for inappropriate reasons diminish the value” of awards for special accomplishments.

Response: Respondent City of Stockton agrees with this finding.

Respondent City of Stockton further replies to the Grand Jury Final Report on its Case No. 0205 by providing responses to each recommendation as follows:

Recommendation: A written policy/procedure should be established by the Human Resources Department and approved by the City Council for recognizing and awarding bonuses to employees who have performed an “unusual accomplishment.” That policy should clearly establish the criteria for presenting these awards for which recognition is warranted.

Response: This recommendation will not be implemented, because it is no longer necessary.

On May 9, 2006, the Stockton City Council adopted Resolution No. 06-____ eliminating the City Manager’s authority to award Special Accomplishment Awards. Therefore, the provisions of various resolutions adopted by the City Council over the years, including Resolution Nos. 25,758 and 27,080, and restated most recently in the January 2006 Salary Schedule, authorizing the City Manager to award employees lump sum cash
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payments up to one-half month’s salary for “unusual accomplishments,” are no longer in effect. Consequently, no City of Stockton employee will receive any money, gratuity, or compensation for any service rendered in the course and scope of employment, other than his or her regular salary, except as provided below.

Notwithstanding the above-stated intent, the provisions of section 2531 of the City Charter of the City of Stockton are still in effect, and the City Council, as the legislative body of the City of Stockton, may award the heroic or meritorious actions of any sworn member of the Police or Fire Department in accordance with the grant of authority set forth below:

The legislative body of the City, may, upon the recommendation of the Chief of the Department, reward any officer or member of the Department for conduct which is heroic or meritorious. The form or amount of such award shall be discretionary with the legislative body of the City, but not exceeding any one (1) instance one (1) month’s salary. The legislative body of the City may appropriate money for such rewards.

(City Charter, art. XXV, § 2531.)

Recommendation: Recommendations should be initiated by the Department or Division head and submitted to the Human Resources Department for review to ensure compliance with policy/procedure. The document should then be sent to the City Manager for approval or disapproval.

Response: This recommendation has been implemented, except that such recommendation shall come via an agenda report to the City Council, approved by the City Manager, and agendized for a regular session of the City Council, in accordance with sections 1201 and 2531 of the City Charter of the City of Stockton.

Recommendation: A substantial effort should be made to justify any future awards, delineating and detailing the reason for the awards in accordance with an established policy/procedure. This method will then ensure that public funds are issued judiciously and appropriately to deserving recipients.

Response: This recommendation has been implemented.

The City Charter of the City Charter sets forth the manner in which “heroic or meritorious” conduct shall be awarded for sworn officers of the Police and Fire Departments. Any such future awards to sworn employees shall be accomplished in the manner set forth in section 2531 of the City Charter. With respect to non-sworn
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May 10, 2006  
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employees, no City of Stockton employee shall receive any money, gratuity, or compensation for any service rendered in the course and scope of employment, other than his or her regular salary.

Recommendation: The City Ordinance should be amended by the City Council to reflect the policy/procedure developed by Human Resources regarding any award.

Response: This recommendation will not be implemented.

The previous authorization for Special Accomplishment Awards was codified in a Council Resolution and, since the provisions of that resolution are being eliminated, this recommendation will not be implemented.

Recommendation: It is recommended that employees be publicly recognized or acknowledged for exceptional performance as recipients of any award.

Response: This recommendation has been implemented.

Insofar as the award of “heroic or meritorious” conduct is recognized, it will be done so in accordance with section 2531 of the City Charter.

On May 9, 2006, the City Council adopted Resolution No. _________ (attached) approving the responses contained herein, authorizing the undersigned to sign this response on behalf of the Council and to transmit same to you.

Please contact me with any questions you may have.

Respectfully submitted,

CITY OF STOCKTON,

J. GORDON PALMER, JR.  
CITY MANAGER

JGP:TGP:DMD

Attachment
March 15, 2006

J. Gordon Palmer, Jr., City Manager
City of Stockton
425 N. El Dorado St.
Stockton, CA 95202

Dear Mr. Palmer:

Enclosed you will find the Grand Jury's report on their review of Employee Monetary Awards of Public Funds.

Pursuant to Penal Code §933.05(f): "A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report."

The above Final Report will be released to the public on March 20, 2006. If you have any questions, please do not hesitate to contact me at (209) 468-2959.

Sincerely,

Trisa L. Martinez
Grand Jury Staff Secretary/Judicial Secretary

Enc.
FINAL REPORT

CASE # 0205 CITY OF STOCKTON EMPLOYEE MONETARY AWARDS OF PUBLIC FUNDS

REASON FOR INVESTIGATION:

The 2004/05 Grand Jury investigated personnel matters of the City of Stockton in which city employees received monetary bonuses. The current (2005/06) Grand Jury decided to examine bonuses/awards to City employees using the Personnel Action form CS-23, which is a general form used by the city for personnel actions. In all but four of the awards the supporting documentation justifying the bonuses was generic and without clear substantiation.

BACKGROUND:

In City Council Resolutions: #25,758 (July 7, 1966) and #27,080 (July 1, 1968) the City Manager has the delegated authority to award “5% or one salary step (7/7/66); or up to one-half month’s salary” (7/1/68), respectively, for “unusual accomplishments.” Given this delegated authority to the City Manager, no written policy, procedure, or guidelines exist for making said awards. The bonuses are paid out of the department’s budget wherein said employee is working.

A total of 73 awards were made from February 2001 to November 2003 (twenty-one months) totaling approximately $123,000. Awards were submitted on the CS-23 form with a letter/memorandum attached which identified the task/assignment for which the employee was awarded the monetary bonus. The bonus awards were either one or two weeks of the employee’s designated monthly salary and were reported on the CS-23 form (one week awards: 63; two week awards: 10). In some instances the same recipients received two or three awards during this twenty-one month period. The lowest dollar amount awarded was approximately $800 and the highest was approximately $5500. In all but four awards, the corresponding documentation in support of the bonuses was generic in nature and failed to clearly identify an “unusual accomplishment” meriting said award. Furthermore, the supporting documentation merely presented that the employee was performing the duties/tasks for which they may have normally been expected to perform in the course of their civil/municipal duties. Awards were made to rank and file, supervisory, and managerial employees.

In reviewing the practices of awards/bonuses in other jurisdictions, it was determined that:

- In other cities in San Joaquin County (Manteca, Tracy and Lodi) no such award tied to an employee’s salary was found to exist.
• Under the Administration Manual for San Joaquin County, section 2587.11, awards of compensatory time off are given for each $1,000 in savings, up to three days within a calendar year.

• The City of Modesto (Stanislaus County) awards $75 for “good ideas,” and a written procedure is in place to identify the parameters for said award.

• The State of California, under Department of Public Administration rule 599.797 and Government Code section 3513 (g), may award supervisors at least $250 but not more than $750 for outstanding job performance. The number of awards is determined by dividing the total number of supervisors by 50, and no supervisory employee may receive more than one award under this rule. “The appointing power shall make these awards based on their assessment of job performance”... and “shall document, in writing.” Furthermore, “the job performance must clearly exceed the standard of performance...and represent an exceptional contribution to State government.”

METHOD OF INVESTIGATION:

The Grand Jury subpoenaed the records for these monetary awards of public funds. The CS-23’s received covered a period of twenty-one months. The Grand Jury reviewed each CS-23 award and accompanying documents. An interview with the Director, Human Resources Department, was conducted on August 25, 2005. Other municipalities were also contacted to establish whether they had similar awards programs for employees. The following city officials were interviewed:

• Leslie Martin
• Gary Giovanetti
• Steve Bestolarides
• Edward Chavez

FINDINGS:

Awards were made only during the twenty-one month period identified. From our investigation there appears to have been no salary/bonuses paid prior to February 2001 or after November 2003. At no time did there appear to be any public recognition or acknowledgement of the employees’ accomplishments warranting these awards. In two instances, awards were made with the recommendation of the Department Head and signed off/approved by the Assistant City Manager. In both instances, the reasons for the awards were clearly documented and substantiated “unusual accomplishment” by the recipients. As previously indicated, the remaining awards appear to have been made for merely performing duties/tasks for which employees have already been compensated in the course of their normal job duties/responsibilities. Some employees may have also received overtime pay in correspondence with the task or job being recognized in the award/bonus. Many of the awards were given for committee work (i.e., CHAT Team, President Bush visit, American Legion Homicide, Channel District Action Team, and Ambulance Service Committee) wherein the recipient’s performance is not clearly substantiated, nor may it be said to have been an “unusual accomplishment,” Finally, in making so many awards (over $123,000) in such a short period of time (twenty-one months), and without clearly supportive substantiation, the appropriateness of said awards may be questioned. Concern over the use of public funds in this manner without any guidelines or procedures and with no apparent oversight raises questions as to the defensibility of
the awards. It is understandable that rewarding outstanding performance or "unusual accomplishment" by employees may be a positive action to take; however, perceptions of favoritism or monetary rewards for inappropriate reasons diminish the value of such acknowledgments.

RECOMMENDATIONS:

- A written policy/procedure should be established by the Human Resource Department and approved by the City Council for recognizing and awarding bonuses to employees who have performed an "unusual accomplishment." That policy should clearly establish the criteria for presenting these awards for which recognition is warranted.
- Recommendations should be initiated by the Department or Division head and submitted to the Human Resources Department for review to ensure compliance with policy/procedure. The document should then be sent to the City Manager for approval or disapproval.
- A substantial effort should be made to justify any future awards, delineating and detailing the reason for the awards in accordance with an established policy/procedure. This method will then ensure that public funds are issued judiciously and appropriately to deserving recipients.
- The City Ordinance should be amended by the City Council to reflect the policy/procedure developed by Human Resources regarding any award.
- It is recommended that employees be publicly recognized or acknowledged for exceptional performance as recipients of any award.

RESPONSE REQUIRED:

_Pursuant to Section 933.05 of the Penal Code:_
The Stockton City Council shall report to the Presiding Judge of the San Joaquin Superior Court, in writing and within 90 days of publication of this report, the response indicates one of the following:

As to each finding in the report a response indicating one of the following:

a. The respondent agrees with the finding.
b. The respondent disagrees with the finding, with an explanation of the reasons therefore.

As to each recommendation, a response indicating one of the following:

a. The recommendation has been implemented, with a summary of the action taken.
b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
c. The recommendation requires further analysis, with an explanation of the scope of the analysis and a time frame not to exceed (6) six months.
d. The recommendation will not be implemented, with an explanation therefore.
RESOLUTION ELIMINATING THE CITY MANAGER'S AUTHORITY TO AWARD SPECIAL ACCOMPLISHMENT AWARDS, REVISING THE 2006 SALARY SCHEDULE TO ELIMINATE THE AUTHORITY OF THE CITY MANAGER TO AWARD SPECIAL ACCOMPLISHMENT AWARDS; ADOPTING THE CITY OF STOCKTON'S RESPONSE TO THE FINAL REPORT OF THE GRAND JURY ON CASE NO. 0205, RELATING TO THE CITY OF STOCKTON EMPLOYEE MONETARY AWARDS OF PUBLIC FUNDS; AND DIRECTING THE CITY MANAGER TO SIGN THE RESPONSE ON BEHALF OF THE CITY COUNCIL AND TRANSMIT THE RESPONSE TO THE PRESIDING JUDGE OF THE SUPERIOR COURT OF SAN JOAQUIN COUNTY.

WHEREAS, various resolutions (including Resolution Numbers 25,758 and 27,080) adopted by the City Council over the years and the January 2006 Salary Schedule grant authority to the City Manager to award Special Accomplishment Awards up to one-half month salary or an equivalent amount of time off from work; and

WHEREAS, the 2004-2005 Grand Jury for the County of San Joaquin issued its findings in Case No. 0205, relating to the City of Stockton Employee Monetary Awards of Public Funds, finding that there was the perception of favoritism in the implementation of the program; and

WHEREAS, concern over the use of public monies to support employee award programs may be interpreted to mean that employees are being compensated twice for work performed in the regular course and scope of employment; and

WHEREAS, California Penal Code section 933.05 requires the City Council of the City of Stockton to respond to the Presiding Judge of the San Joaquin County Superior Court within ninety (90) days of publication of the Final Report; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

1. The authority of the City Manager to award Special Accomplishment Awards of up to one-half month salary or an equivalent amount of time off from work is hereby eliminated.

2; The 2006 Salary Schedule shall be amended by deleting the language relating to "Special Accomplishment Awards."
3. The Response to the Grand Jury Findings in Case No. 0205 is hereby approved, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference.

4. The City Manager is hereby authorized and directed to sign the Response and transmit it to the Presiding Judge of the San Joaquin County Superior Court.

5. The City Manager is authorized and directed to do all things necessary to carry out the purpose and intent of this resolution.

EDWARD J. CHAVEZ, Mayor of the
City of Stockton

ATTEST:

KATHERINE GONG MEISSNER
City Clerk of the City of Stockton
May 10, 2006

Presiding Judge
San Joaquin County Superior Court
222 East Weber Avenue
Stockton, California 95202

CITY OF STOCKTON RESPONSE
FINAL REPORT—CASE NO. 0205
CITY OF STOCKTON EMPLOYEE MONETARY AWARDS OF PUBLIC FUNDS

In accordance with section 933.05 of the California Penal Code, the City Council of the City of Stockton responds to the Grand Jury Report on the above-referenced case as follows:

Finding: The Grand Jury has determined that "perceptions of favoritism or monetary rewards for inappropriate reasons diminish the value" of awards for special accomplishments.

Response: Respondent City of Stockton agrees with this finding.

Respondent City of Stockton further replies to the Grand Jury Final Report on its Case No. 0205 by providing responses to each recommendation as follows:

Recommendation: A written policy/procedure should be established by the Human Resources Department and approved by the City Council for recognizing and awarding bonuses to employees who have performed an "unusual accomplishment." That policy should clearly establish the criteria for presenting these awards for which recognition is warranted.

Response: This recommendation will not be implemented, because it is no longer necessary.

On May 9, 2006, the Stockton City Council adopted Resolution No. 06-___ eliminating the City Manager’s authority to award Special Accomplishment Awards. Therefore, the provisions of various resolutions adopted by the City Council over the years, including Resolution Nos. 25,758 and 27,080, and restated most recently in the January 2006 Salary Schedule, authorizing the City Manager to award employees lump sum cash
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Notwithstanding the above-stated intent, the provisions of section 2531 of the City Charter of the City of Stockton are still in effect, and the City Council, as the legislative body of the City of Stockton, may award the heroic or meritorious actions of any sworn member of the Police or Fire Department in accordance with the grant of authority set forth below:

The legislative body of the City, may, upon the recommendation of the Chief of the Department, reward any officer or member of the Department for conduct which is heroic or meritorious. The form or amount of such award shall be discretionary with the legislative body of the City, but not exceeding any one (1) instance one (1) month's salary. The legislative body of the City may appropriate money for such rewards.

(City Charter, art. XXV, § 2531.)

Recommendation: Recommendations should be initiated by the Department or Division head and submitted to the Human Resources Department for review to ensure compliance with policy/procedure. The document should then be sent to the City Manager for approval or disapproval.

Response: This recommendation has been implemented, except that such recommendation shall come via an agenda report to the City Council, approved by the City Manager, and agendized for a regular session of the City Council, in accordance with sections 1201 and 2531 of the City Charter of the City of Stockton.

Recommendation: A substantial effort should be made to justify any future awards, delineating and detailing the reason for the awards in accordance with an established policy/procedure. This method will then ensure that public funds are issued judiciously and appropriately to deserving recipients.

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Recommendation: The City Ordinance should be amended by the City Council to reflect the policy/procedure developed by Human Resources regarding any award.

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Recommendation: It is recommended that employees be publicly recognized or acknowledged for exceptional performance as recipients of any award.

Response: This recommendation has been implemented.

Insofar as the award of "heroic or meritorious" conduct is recognized, it will be done so in accordance with section 2531 of the City Charter.

On May 9, 2006, the City Council adopted Resolution No. _________ (attached) approving the responses contained herein, authorizing the undersigned to sign this response on behalf of the Council and to transmit same to you.

Please contact me with any questions you may have.

Respectfully submitted,

CITY OF STOCKTON, a municipal corporation

By: J. GORDON PALMER, JR.
Its: CITY MANAGER

JGPjr:TGP:DMD