DATE: December 1, 2020

TO: Mayor and City Council

FROM: Chief of Police

SUBJECT: Adopt a Resolution Authorizing the City Manager to Purchase an Unmanned Aerial System (UAS) and Adopt a UAS Program for the Hayward Police Department

RECOMMENDATION

That Council adopts a resolution (Attachment II) authorizing the City Manager to purchase an Unmanned Aerial System (UAS) and purchase of equipment and training in an amount not to exceed $50,000 during FY 2021.

SUMMARY

The Hayward Police Department (HPD) has carefully examined the benefits of using a UAS for select operations in the Hayward community. UASs are commonly known as drones. Currently, the City uses a drone for geographical mapping and to assist in administering Hayward Executive Airport compliance with Federal Aviation Association standards. HPD seeks to expand the City's UAS program by securing its own UAS/drone. The use of UASs by local governments and law enforcement agencies is an expansion of technology but is not new technology. As discussed in this report, there are several agencies in Alameda County that currently deploy UAS technology.

The Council Infrastructure Committee reviewed this item in October 2019[1] and recommended that the Council approve the program.

BACKGROUND

Technology is rapidly changing the face of modern policing. One new technology, UAS – often referred to as "drones" – is poised to transform law enforcement operations at a level not seen since the introduction of body-worn cameras. UASs are a portable and easy-to-learn technology that are being used by law enforcement agencies across the country to improve operational efficiency, as well as officer and community safety.

[1] CITY OF HAYWARD - File #: ACT 19-166 (legistar.com)

UASs are small, unmanned aircrafts, operated by a ground-based pilot who maintains line-of-sight contact with the UAS. UASs offer a safe, effective, and affordable option for enhancing a wide variety of law enforcement operations such as search and rescue missions, accident scene investigation, crime scene reconstruction, and protecting officers in high-risk environments such as high-risk warrant service and active shooter situations.

UASs are an affordable alternative to planes and helicopter air support. The use of a UAS is not excluded from privacy laws such as Fourth Amendment protections and therefore ***will not*** be used as a platform for random surveillance activities or as a means for intercepting electronic or other communications. The UAS will not be used as a weapons platform.

In 2015, approximately 147 law enforcement agencies in the United States had an active UAS program. In 2018, over 900 agencies had an operating UAS program. Locally, the Alameda County Sheriff's Office has been operating a UAS program since 2015 and the Fremont Police Department started their own program last year. In 2018, Union City Police Department and Newark Police Department each created and are now operating a UAS program. HPD has often been able to request assistance from these agencies during a number of recent incidents in order to utilize their UASs. However, there have been times when these UASs were not available for use by HPD, leading to the desire for the department to have its own program.

DISCUSSION

HPD is seeking to leverage new technologies and community partnerships to address public safety issues. While new technologies are sometimes viewed with suspicion, their introduction can also strengthen partnerships that promote safe communities. A carefully introduced and closely monitored UAS program provides several possible crime control capabilities and has the potential to improve both community and officer safety, while decreasing the cost of improved operations. It allows officers to slow down and evaluate the current situation in hopes of reaching a peaceful resolution.

De-escalation. The use of UASs will have a positive and safe impact on helping those in mental health crises. Having the ability to slow the incident down to gain valuable information will drastically increase the safety of everyone involved. Using UASs is a non-threatening means to evaluate the safety of the individual and public. UASs will improve HPD's response and de-escalation techniques when working a critical incident where the public is not at risk. UASs will help resolve incidents and reduce the likelihood of the need to use force.

On August 7, 2020, at 2:00 a.m., a potential critical incident occurred when a man in his home was reported to be firing a high-powered rifle. Instead of sending a response team to his door, HPD secured a drone from the Sheriff's Office. The Sheriff's Office deployed a pocket-sized drone that helped officers to evaluate and then safely de-escalate the situation, and the man safely surrendered without any harm to anyone involved.

Improving Search and Rescue Operations. The ability of UASs to maneuver in relatively small and difficult-to-access areas makes it a promising technology to assist with search

and rescue operations. In 2016, Fremont Police Department used the Sheriff's Office UAS to search for and document the location of body parts associated with a homicide investigation. Recently, the Sheriff's Office used their UAS to search for the driver of a vehicle that crashed into the water in Niles Canyon, to search for a missing kayaker in the San Francisco Bay, and to search along the jagged cliffs near Highway 1 for a man who was thought to have fallen over the edge. Rather than rushing into a situation where officers may need to use force, officers can deploy a UAS to keep a safe distance to allow them to evaluate the incident properly and effectively. In late 2019, HPD successfully used the Sheriff's Office drone to assist in finding a distressed female who was threatening to kill herself.

Accident and Crime Scene Investigations. An aerial survey by a UAS, particularly one equipped with GIS mapping software, can save hours in follow-up investigations. This technology can speed up accident and crime scene investigations by reducing the amount of time roadways are closed for scene investigation and diagramming – which may otherwise take several hours. HPD has used the Sheriff's Office drone program to effectively map out critical incident scenes, homicides, and fatal motor vehicle accidents.

Support and Coordination with Fire/EMS. Firefighter safety and effectiveness can be improved by the use of a UAS to view roof damage during a fire or to locate "hot spots" that need to be controlled, to locate and assess victims in need of rescue, to monitor the integrity of burning buildings, to account for firefighting personnel on the fire ground, for natural disaster monitoring, fire-mapping, training, and other uses. The Fremont Fire Department used their UAS to investigate a hazardous material spill and to assist with their response at several large structure fires.

Disaster Management. UASs can survey damage in flooded or inaccessible areas quickly, saving first responder's vital time and protecting their safety. Relief workers used UASs to assess remote villages in the Philippines after a series of typhoons had hit the country and were also used to determine the stability of buildings after a devasting earthquake in Haiti. UASs can also be used to deliver water, radios, and other equipment to first responders or others who may find themselves in locations that are difficult or impossible to access. Hayward sits on the Hayward fault line. As such, it is not if, but when a large earthquake will occur. In the aftermath of earthquakes, UASs can be used to identify infrastructure damage and identify those in dire need of medical care.

Protecting Officer Safety. Some departments use UASs to get a better look at suspicious packages or locate hidden (and possibly dangerous) suspects while reducing risk to officers. For high-risk arrest and search warrants, UASs are used to provide overhead views of target properties, improving officer safety by observing fleeing or hiding suspects, tracking their directions, and helping determine whether or not suspects are armed. In February of 2018, the Union City Police Department used a UAS to visually clear a large business where an in-progress burglary was reportedly occurring prior to sending officers inside. The UAS revealed the business was being used to grow large quantities of marijuana. The use of the UAS allowed officers to gather intelligence and adjust tactics before conducting a high-risk search.

As the use of this technology in law enforcement operations continues to increase across the country, mostly due to improvements in technology and reductions in associated cost, identification of more public safety uses for UAS will likely occur.

Program Guidelines

To fully implement the proposed program and assure transparency in its operations, the following sets of program guidelines have been developed:

a. *HPD UAS Policy 616 Updates*

Hayward Police Department Unmanned Aerial System (UAS) Policy 616 Updates. In line with this deployment, a draft UAS policy has been included as Attachment IV to this report (HPD UAS Policy 616 Updates) to bring transparency to deployment criteria and operation.

b. *Surveillance and Data Retention Policy Guiding Principles Working Document*

Surveillance and Data Retention Policy Guiding Principles Working Document. Following discussions at Council this past year about deployment of technology, Councilmembers Mendall and Wahab met with some City staff members to outline a draft and vision of a set of guiding principles that would apply to the data created by surveillance technology. This set of principles is not meant to replace specific City policies, but instead serve as an outline of elements to consider and adhere to when designing policies and programs that apply to surveillance technology. The City Attorney's Office has reviewed the draft principles and provided an updated document, which includes comments based on case law. In addition, to demonstrate an application of the draft guiding principles in action, the City has also included responses in the document that outline how the UAS program would adhere to the draft guiding principles where applicable. A copy of this document is included as Attachment III Surveillance and Data Retention Policy Guiding Principles Working Document.

c. *Surveillance and Data Retention Policy*

Surveillance and Data Retention Policy. To bring maturity to the Data Guiding Principles, an accompanying policy is currently being drafted by the City. This comprehensive document will address such elements as reporting requirements, data, and security. A draft of this policy will be brought to a future Infrastructure Committee meeting for discussion and feedback with the ultimate goal of adoption by Council at a later date.

Council Infrastructure Committee (CIC) Review

The Council Infrastructure Committee reviewed this item in October 2019[2] and recommended that the Council approve the program.

[2] **CITY OF HAYWARD - File #: ACT 19-166 (legistar.com)**

The CIC requested the City of Hayward adopt a video retention policy. It was noted the HPD currently has a policy and procedure in place for such video retention concerns. This policy is currently being updated per the discussion above. The second request was to allow the Police Department Community Advisory Panel to have input on the UAS program. The City Manager's Office and HPD will work with the panel in this regard.

FISCAL IMPACT

This proposal would require the purchase of equipment and special training for personnel. The total initial cost of the required equipment (4 UAS aircraft, cameras and other equipment) with tax included, is estimated to be $14,000. The total initial cost for training and certification of eight pilots is estimated to be $4,700 (price would go down on any adjusted time). The total initial cost to begin this program is estimated to be $18,700.

According to local agencies, they expect to replace their UAS units every two to three years to keep up with developing and improving technology.

This request does not require an increased appropriation. The City currently has the funds for this within the HPD's FY 2021 budget and staff proposes to set aside up to $50,000 from this year's budget for the initial program expenses and in case additional training or equipment is needed.

PUBLIC CONTACT

While the benefits of UAS use by law enforcement are numerous, challenges also exist. HPD understands the need for transparency about this program. HPD representatives met with residents and local stakeholders directly, face to face, to answer questions and listen to concerns and suggestions by conducting the following meetings:

- November 6, 2019: Conducted a presentation to all Neighborhood Watch Group members throughout the city
- December 11, 2019: Community outreach at North Resource Center
- December 12, 2019: Community outreach at Glad Tidings Church

Each member of the Community Advisory Panel has been invited to attend the public outreach meetings. Having a draft policy prepared at the meetings proved to be helpful in explaining how and when UASs can and cannot be used, such as not being used in cases of random surveillance.

NEXT STEPS

If Council authorizes the proposed resolution, HPD will move forward with the purchase of equipment and training of personnel.

Prepared by: Mark Ormsby, Lieutenant

Recommended by: Toney Chaplin, Chief of Police

Approved by:

Kelly McAdoo, City Manager