



City of Riverbank

6707 Third Street • Riverbank, CA 95367-2396
Phone: (209) 869-7101 • Fax: (209) 869-7100

August 3, 2009

RECEIVED

AUG 04 2009

The Honorable Jack M. Jacobson
Presiding Judge
Stanislaus County Superior Court
Post Office Box 3488
Modesto, California 95353

RE: Responses to 2008-2009 Stanislaus Grand Jury Final Report
Civil Grand Jury Case No. 09-20C

Dear Honorable Judge Jacobson:

In accordance with Section 933(c) of the California Penal Code, the City of Riverbank respectfully submits the following responses to the Stanislaus County Grand Jury recommendations.

1) The Riverbank City Council should invalidate the election and remove the most recently "elected" City Council Member.

Response: The City of Riverbank retained the services of Greenberg, Traurig, LLP to determine if the City of Riverbank has the authority to implement this recommendation. Following is a summary:

After an election, there are only two ways to challenge an official's eligibility to serve in an office for which he or she has been elected. First, the results of an election can be contested through an "election contest" action; see California Election Code §16000 et al. Second, the California Attorney General can initiate a "quo warranto" proceeding; see California Code of Civil Procedure §803. See Exhibit 1 copies of Elections Code §16000 and Civil Procedure §803.

A. Contest of Election. In order to contest an election an action must be brought within 30-days of certification of the election results.

- B. Quo Warranto. Section 803 of the California Code of Civil Procedure provides the Attorney General with the exclusive authority to bring a quo warranto action, on his own motion or upon the complaint of an individual, against anyone alleged to unlawfully hold or exercise any public office within California. A quo warranto action can be brought against an elected official at any time.

Based on the foregoing, Riverbank does not have the authority or ability to invalidate Councilmember Jesse James White's election or remove him from office, and disagrees with this recommendation.

- 2) The City of Riverbank has a strong City Manager/weak Mayor form of Government. The City Manager shall establish a more efficient manner of disseminating information to the City Council and staff.

Response: The City disagrees with these recommendations. The City of Riverbank is a General Law City. The City, pursuant to California Government Code §34851, has adopted a City Manager form of government. Under this system, the City Council is the legislative body and an appointed City Manager is the Chief Executive Officer. The Legislative body sets policy which is implemented by the City Manager. There is no form of government known as "strong" City Manager and "weak" Mayor. Only 6 of the 460 California cities have a Mayor-Council form of government. Most of those are large cities such as Los Angeles and San Francisco. Exhibit 2 explains in greater detail the format and relationship between the Council and City Manager.

The recommendation regarding disseminating information to City Council and staff is already implemented. The City Manager continually disseminates information to Council and staff on a routine basis via biweekly reports, Management Planning Meetings, Ad-Hoc groups, internal website, dedicated Council website, phone calls, emails, and an open door policy. See Exhibit 3.

- 3) The City Manager needs to be more visible in his leadership role.

Response: This recommendation is already implemented. The City Manager has always been visible in the Community. He attends all major functions and collaborates with such groups as Rio Arts, Riverbank Community Theater, Riverbank Woman's Club, Friends of Jacob Myers Park, United Way, Riverbank Historical Society, the Alliance, StanCOG, Valley Art Association and the Rotary Club. For example, at the Beyond Earth Day Celebration, the

City Manager had a water tasting booth which compared bottled water (Arrowhead and Evian) against Riverbank tap water. The City Manager has an open door policy with employees and believes in management by walking and talking with City staff, officials and the citizenry.

4) The City Council should evaluate the City Manager on an annual basis.

Response: The City concurs with the Grand Jury findings. The City Attorney is preparing a revised evaluation form for the City Council and the City Manager to review. Afterwards, the City will reinstate the annual City Manager evaluation. See Exhibit 4.

5) The City Manager should evaluate his staff on an annual basis.

Response: The City respectfully disagrees with the Grand Jury findings. The City Manager is a strong advocate for the evaluation process. On an annual basis he evaluates each Executive Manager and at that time establishes performance objectives for the next evaluation period. Each department is responsible for evaluating their respective staff. The City has a tracking system in place to ensure that all employees are evaluated on an annual basis. See Exhibit 5.

6) The City Council should direct staff to develop a set of policies and procedures for each department.

Response: This recommendation is already implemented. Each department is responsible for developing policies and procedures for their respective departments. A sample of a City Clerk Department policy/procedure has been included, see Exhibit 6.

7) The City Manager should institute a policy that all employees read, and verify by their signature, the policies of the City of Riverbank on an annual basis.

Response: This recommendation is already implemented. When employees begin service with the City of Riverbank, they receive a copy of the Riverbank Personnel Rules and Regulations. Employees are required to sign a form acknowledging that they have received and read the City's Rules and Regulations. Administrative Policies are adopted from time to time and distributed to all City employees. Employees are required to sign a form

acknowledging that they read and understand the new policies. In addition, the Rules and Regulations and all Administrative Policies are posted on the City's internal website. See Exhibit 7.

8) When verification of documents is required, the City Clerk or Assistant City Clerk should review each document for accuracy and timeline.

Response: This recommendation is already implemented when it falls under the purview of the City Clerk and not any other officer (i.e. County Clerk, Fair Political Practices Commission, Secretary of State, etc.)

9) The City Council should publicly reprimand or censure the Vice Mayor for his misrepresenting the Riverbank City Council at a local fund-raising event.

Response: The City of Riverbank disagrees with this recommendation. City Councilmembers are encouraged to attend and/or participate in regional meetings and community-minded events. The adopted City Council norms of operation state "if a member of the City Council appears before another governmental agency or organization to give a statement on an issue affecting the City, the Councilmember should first indicate the majority position and opinion of the Council. Personal opinions and comments may be expressed only if the Councilmember clarifies that these statements do not represent the position of the City Council and should not be made if detrimental to the current position of City business". The City has no policy or procedure in place that prohibits a Councilmember from using their respective title at non-City events. In fact, it is quite commonplace for elected officials to be recognized as dignitaries at events they attend whether that is their intention or not. In this case, Vice Mayor White purchased the table himself and the Event Coordinators labeled his table, City of Riverbank. Mr. White should not be censured for purchasing a table which the City received credit for. See Exhibit 8.

10) The City Manager should contract with a professional consultant experienced in cities with rapidly changing population demographics, aging infrastructure, and organizational changes. The City Council should also develop relationships with cities that have successfully navigated the pitfalls of rapid change.

Response: The City agrees that in today's fast paced, ever changing environment, a need for outside observation and reflection is vital. For example, in the past the City has contracted with Tom Van Groningen, to

improve communication, respect, and trust between members of Council and staff. Because Mr. Van Groningen has served as an elected official and public service employee, he is able to effectively identify and resolve existing issues. The City will retain the services of Mr. Van Groningen as financial conditions allow. With regards to the City Council developing relationships with other cities, this has already been accomplished through the League of California Cities, StanCOG, the Alliance, Stanislaus County Mayor's Consortium and other such groups.

11) One delivery system, paper or email, should be used and computer training for the sole member who professes computer illiteracy, should be provided if the City chooses to use only an electronic mode for communication.

Response: The City disagrees with this recommendation since one delivery system is not in the best interest of transparent government. The City of Riverbank utilizes many forms and mediums to communicate with the City Council and the Community – personal visits, public meetings, phone calls, voicemail, hard copy documents, emails, and hard copy print outs of emails. Some forms of communication are more appropriate at times than others and the varied methods of communication enhance our ability to effectively understand each other. We also strive to have much of our literature in Spanish. It is our contention that one form of communication is not productive for adequately disseminating information. The City does offer computer training and a City-owned laptop for each Councilmember's use.

12) Several interviewees were unable to recall certain dates, meetings, subjects of meetings, and Court testimonies. It is strongly suggested that all members of the Riverbank City Council, City Government, and County Board of Supervisors, maintain records of the dates of meetings and the subject of said meetings to enhance their recall.

Response: This recommendation is already implemented. The City of Riverbank keeps meticulous records of dates and meeting content regarding its City Council agendas and minutes (including Redevelopment Agency, Local Redevelopment Authority, Planning Commission, Environmental Review Committee, and the Downtown Revitalization Committee). These records are maintained on an archived system, and for several years on the City website. Many questioned by the Grand Jury did not have their day timers or other recordkeeping calendars with them. Because of this, it was difficult to remember exact dates, times and subject matter of meetings.

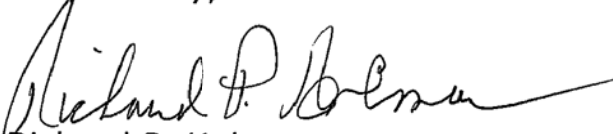
The City respectfully suggests that in the future if the Grand Jury requires such specificity they request respondents to bring their calendars with them.

13) Concerned citizens frequently question the actions of the City Government and City Council. In the best interest of transparent government, the City Council needs to develop a set of policies and procedures. This would assist the members of the City Council and establish a sense of trust between the Council, City Government, and all the citizens of Riverbank.

Response: This recommendation is already implemented. Concerned citizens are both explicitly and implicitly invited to participate in actions of the City of Riverbank. Decisions of the City Council are made in public meetings with agendas noticed and available at City Hall, and on the city website. Additionally, the City Council meetings are normally televised, and archived televised meetings and minutes are available for the public. Additionally, City Hall is open to the public to meet with city staff to inquire about projects and programs, and upcoming City Council actions.

The City Council has established and approved policies pertaining to norms of operation and rules of order and procedures. These policies address general principles, core values, conduct at City Council meetings, Council interaction and communication, Council relations with staff, commissions, committees, and outside organizations, citizen complaints, and handling of litigation and confidential information. This approved document is attached, see Exhibit 9.

Respectfully,



Richard P. Holmer
City Manager

RPH/lb

Attachments

Cc: Stanislaus County Civil Grand Jury
File