

May 2, 2010

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CGJ

Stanislaus County Grand Jury
Post Office Box 3387
Modesto, CA 95353

Re: Response to Civil Grand Jury Case No. 010-04

Dear Mr. France and Grand Jury Members:

First of all, I want to make it clear that I do not agree with the findings of the Grand Jury. Originally I had made numerous inquiries regarding actions of the Hughson management staff. When I asked for a formal investigation at a City Council Meeting, the City Manager said he would contact the Grand Jury with my complaints. Although I welcomed the investigation in the beginning, I became concerned when I kept hearing instances of mismanagement. Once again I began trying to get the City Manager to investigate my concerns, and again my complaints were ignored or just not acted on.

I had reported numerous complaints of mismanagement to the Grand Jury, and later you came up with an opinion that there was no willful misconduct by the City Staff. I do not understand how you could have come to that conclusion? I had complained about the City Public Works Director/City Engineer, but it appears to me that you never actually investigated any of my allegations. Then later the District Attorney files two felony charges. He also had his waste water license revoked after an investigation indicated that he had allegedly given false information on the application. It was also alleged that the City Manager had also confirmed in writing false information as part of the same application. I also reported instances of potential gifts of public funds and improper use of City services and equipment. I also made allegations of improper management activities that were creating a hostile work environment for the city staff.

As a matter of fact, your opinion states,

"The Civil Grand Jury finds that none of the actions of the city staff rose to the level of "willful misconduct" at the time of the complaint. Interviews of the Council member making the accusations and other Council members, the Mayor, the City Manager and other persons of interest did not reveal any clear or provable allegations."

How in the world could you have possibly come up with such a conclusion? The District Attorney is actually prosecuting the City of Hughson Public Works Director/City Engineer for two felony charges. The California Water Resource Board

did in fact take action against the same person, and clearly alleged that the City Manager did also submit information that was not true. At the last City Council Meeting, the women that work at City Hall and the Building Inspector spoke of their allegations of a hostile work environment. It was absolutely embarrassing to hear the complaints of abuse and improper treatment of our staff. The conclusions in the Grand Jury Report have only provided the environment for the harassment to continue. The findings in your report stated, "did not reveal any clear or provable allegations." Give me a break. If you had done your duty and investigated the allegations, you would have found many of my original complaints were true.

It is a true miscarriage of justice for the Grand Jury to throw these women under the bus, and conclude what they were stating was not true. What a slap in the face. It is also interesting that you never interviewed any of these women or staff members, whom I suggested could provide detailed evidence about the misconduct. Instead you took the word of the City Manager, who was the person that was the focus of some of the complaints. It was up to the Grand Jury to conduct a fair and impartial investigation, which we are all aware of now, was clearly one-sided.

As a result of your findings, these women were drug through the mud, and publically ridiculed for their attempt to bring the inappropriate action to the City Council's attention. Remember, the Sexual Harassment and Hostile Work environment had been going on for several years, and the women were forced to just work through it. However, maybe the worst act of cruelty came at the hands of the Grand Jury's Report, which made it seem like nothing that was done to them was true or real. I would suggest that if such actions were experienced by one of your friends or family members, it would certainly be real. What about the women on the Grand Jury, how would you like to be subject to this type of behavior? I tried to bring these concerns to the Grand Jury and you ignored me, and instead focused on me. I think that was the original plan by those trying to silence my crusade for the truth.

As a result of your inaction on the real problems in Hughson, just look what has happened to these women in the community. The women at City Hall have been forced to expose their mistreatment publically. I also know there are other women current, and past employees, that did not speak at the meeting, who also experienced some of the inappropriate treatment. How did the management staff not commit a willful violation?

Had the Grand Jury properly interviewed all of the witnesses you would have come to some different conclusions. The Grand Jury Report has hurt a lot of people for no real reason. By trying to attack me, you have seriously impacted other people's life in a way that can never be corrected.

Alleged Brown Act Violations

I did not violate the Brown Act based on the emails dated April 22, June 19, and July 2, 2009. I was actively attempting to expose the improper activities of the City Management Staff. I was constantly finding myself up against road blocks and

attempts to stall my quest for the truth. Everything I did was copied to the City Manager and City Attorney. With that in mind, I was under the impression that my actions and communications were proper. Why did the City Attorney **NOT** inform me that my emails were improper? Maybe because I was questioning the City Attorney's performance, and the improper billing practices that if not uncovered would have cost the community thousands of dollars? Why didn't the City Manager inform me that I was doing something wrong? I had no intention of violating the Brown Act. My only reason to send the emails was because of my concerns that management was not informing the City Council of truthful information. It appears to me that there may have been some clear conflicts of interest in an attempt to silence my quest for the truth!

The real issue to me is that I have still to this date, not been given the opportunity to defend my actions in front of the Grand Jury. I was never provided specific information from the Grand Jury so I could defend my actions. I have asked the Grand Jury on several occasions now to provide me the emails that they are referring to, and have yet been given an opportunity to give my side of the story. Your interview of me occurred very early in the process, and none of the allegations or findings were ever presented to me to defend? How is this process even remotely fair, or impartial? It seems to me, that you were clearly on witch hunt after me, and the other two councilmember's as a result of the illegally recorded audio tape while the City Council was adjourned to closed session.

Another significant problem was that Mayor Bawanan was trying to refuse me the opportunity to put items on the agenda for public meetings. I had made numerous requests for items to be placed on the agenda and I was told no. I complained to the City Attorney, who told me I needed to get at least three councilmembers to agree to request a meeting, or place items on the agenda. I never saw anything in the past to support such an opinion, but I didn't know for sure and relied on the City Attorney for direction. It is my belief that the City Manager and Mayor were intentionally delaying, or misdirecting my attempt to bring my concerns out to the public at a City Council Meeting. I did everything I could to try and have the allegations investigated properly and let the chips fall where they may. However, I made a fatal mistake by letting the City Manager take the complaints forward without knowing what he actually submitted.

With the previous direction from the City Attorney, I thought my emails were appropriate in trying to expose not only inappropriate behavior, but illegal behavior. There were allegations of fraud involving the City Administration. There were allegations of sexual harassment and a hostile work environment. I am still at a loss on how do you as a true impartial panel, could ever hold an email as a bigger problem than; potential fraud, violations of the CA Penal Code, violations of the Hughson Municipal Code, misappropriation of City funds, gift of public funds, sexual harassment, and a hostile work environment.

Explain to me how this is the case? What good have you really done for the public? What justice have you done to the City of Hughson non-management staff? What you have done is slap all of us in the face and create a one-sided opinion that has

significantly impacted others for the future. Now many of the true facts are beginning to surface, and it should be your desire to set the record straight. I am merely asking you to give me and others with factual information the opportunity to present the other side of the story.

Alleged FPPC Violations

I would argue that there was no violation of the Fair Political Practices Commission Regulation 18700. I have done nothing wrong. I do not understand how you could have come to that conclusion? I had true concerns about the Streetscape Project, and my opinions were already well known before I even took office. Many of us in the business community had been voicing concerns from the beginning, and our voices were clearly ignored. Once again, I was never given an opportunity to defend myself, or even see the actual evidence that has been presented against me. If I had been given the chance to tell you my side of the story, it may have been easier for you to understand why I took certain courses of action, and most likely provided you with a different perspective.

As we all know now, the project had an adverse effect on two of the businesses downtown. The City may have avoided a number of issues, including potential litigation, if they would have addressed the project differently. What the Grand Jury is failing to understand, is that the streetscape project has been mismanaged. The end result has been various complaints by the business owners for both the design and delays. If the Grand Jury would have given me the opportunity to tell my story, it may have given you some facts that provide a clear picture of the mismanagement of the project. The potential litigation and liability of the step designs on the South side of the street will be a future liability for the community. The miscommunication with the downtown business owners is exactly the same type of problem we found with the Water Tower on Fox Road. Once again, the management staff did not communicate with the property owners, and just did what they wanted. These two projects are clearly a small picture of the problems I have been complaining about for some time. How many millions of dollars does the community have to spend as a result of the poor management decisions over the last four years?

As far as the allegation that I was; "offering to use my position as a City Council member to influence the Board of Supervisors in exchange for employment." This finding is just plain not true. I have reviewed all of my correspondence and I find no document that I offered my position as a Council Member for anything, period.

Once again, the real issue here is that to date, I have not been given the opportunity to defend my actions in front of the Grand Jury. I was never provided specific information from the Grand Jury of any wrong doing, so how was I to present a defense to my actions. I have asked the Grand Jury on several occasions to provide me the information that they are referring to, and I have been told there are no documents available for my review? Once again, how in the world can you come to such a conclusion, without even hearing my side the story? How do you even know that the documents are original, and not altered? I am

concerned that this is why you are not willing to show me the documents, because there may be issues of their validity! Again, there was clearly no violation, and if given the opportunity to present my side of the story, you would have found the truth.

Alleged Hughson Municipal Code Violations

I would argue that there was no violation of the Hughson Municipal Code. I have done nothing wrong regarding the Hughson Municipal Code. I do not understand how you could have come to that conclusion? I had true concerns out the mismanagement of the city and desired nothing more than an impartial investigation of the various allegations I was hearing in the community. The real truth is that I would have been doing an injustice to merely give in to the road blocks by the Mayor and the City Manager. Now months following my original allegations, we have found that my concerns were in fact valid and proven true in more than one case.

I was willing to join the City Council to hopefully make the necessary changes to allow our community to make it through the tough economic conditions. It was very difficult for me to constantly see the city staff recommending projects and spending money in a way that created questionable returns. I began from day one on the council asking tough questions, and never really received the answers I was looking for. It seemed as though I was getting only part of the information, or not being given the potential negative outcomes of the projects. At times it seemed that management staff would just do something on their own outside of the actual budget, then address it later. There were many questions that I raised that just did not receive the proper answers. When I started hearing about some potential illegal activities I became even more concerned about a possible cover up. I was also hearing comments that the problem might be involving more than one management level person. I only desired to have my concerns heard and properly investigated.

As a council member I was **NOT** given the proper assistance by the Mayor, City Manager, or the City Attorney regarding my concerns of mismanagement. Why is that? Well that is the **MILLION DOLLAR** question, as I believe the mismanagement and improper performance of the city management will result in that kind of monetary loss. Just remember, a million dollars looks like this, \$1,000,000.00. Do you think the Citizens of the City of Hughson can afford to ignore that kind of money? I don't think so. We need to realize that this problem did not just suddenly happen last year, this mismanagement has been occurring over the last 4 to 6 years. My methods may not have been perfect, but my intentions to protect the community were clearly genuine, and not in violation of anything.

As far as the finding that the; "City Council's decision, with a three-to-two vote, to direct the City Manager to fire the City Engineer and City Clerk and the subsequent attempt to fire the City Manager was likely the result of a prearranged plan by City Councilmen A, B, and C."

This finding is just completely not the case. I was never engaged in any

prearranged plan with other councilmember's regarding any decision I made on the City of Hughson. Just because the vote came out as a majority does not create any problem, or any violation. I personally had my opinion on the management and direction of the community. In my opinion the direction was not appropriate, and I was interested in making necessary changes to move forward. The result was clear when one of the parties was subsequently charged with two felonies. It was also later determined that the City Clerk had not been completing all of the required tasks associated with the position. Once again, if I had been given the chance to explain my concerns and provide proof, you may have realized my reasoning.

As for the finding that; "Councilmen A, B, and C disregarded their fiduciary responsibility to the citizens of Hughson by attempting to fire the City Manager instead of accepting his offer to shorten his contract."

This finding is just not true. I never disregarded my fiduciary responsibilities. The City Manager himself took that option off the table. I had nothing to do with his decision in any form. I was looking forward to the meeting to determine how he would respond. The City Manager never even showed up for the meeting, nor did he let anyone know in advance of the meeting he would not be present. I actually thought that was rather strange, why would a City Manager not show up to a required City Council Meeting, particularly when his position was the item of discussion. I thought that showed a real lack of concern and responsibility on the part of the City Manager. Such behavior is relative to the other concerns that I have had for some time. It is my opinion that the City Manager was afraid he would have to answer the tough questions. Since I was unable to ask the tough questions, I had to rely on what I thought was best for Hughson.

At no time were my actions in violation of any Municipal Code, nor were they detrimental to the community. Again, if the Grand Jury would have called me in to explain my actions, you would have found that I had done nothing wrong.

As for the finding that there was a; "preponderance of evidence shows that Councilmen A, B, and C promoted their own agenda against the best interests of the citizens of Hughson."

This finding is also not true. I never acted in any way that promoted an agenda that was not in the best interest of the community. Everything I did was what I thought would be in the best interest of the citizens of Hughson. I have been a part of this community for years and served many years as the Mayor and a Councilmember. You have absolutely no proof that I in any way disregarded my concern for what was best for Hughson.

In fact I do not believe you have any credible evidence of any wrongdoing on my part. You have a lot of he said, she said, no real proof, or you would be willing to show it to me and allow me the opportunity to defend myself. With all the information that is now surfacing regarding the management activities, I again challenge you to reevaluate your findings and make the appropriate changes.

As far as your recommendations, "The Civil Grand Jury recommends Councilmen A, B, and C resign or be removed by the Attorney General of the State of California, the FPPC or a recall by the citizens of Hughson." I cannot agree, and I will not voluntarily step down from office.

"The Civil Grand Jury recommends the City Council practice due diligence in initiating an outside search for any city manager hired in the future." I can agree that we need a transparent process to select our permanent City Manager, but that does not mean we must search outside. I would also not agree with any process that would diminish the council's authority, as long as the city hiring practices are followed.

"The Civil Grand Jury recommends the City provide more detailed workshops for the City Council on the Brown Act, especially in relation to emails and serial meetings, as well as applicable FPPC regulations." I would agree with this recommendation. I would also add that the City Attorney be clearly trained on the responsibility to properly advise the City Council when potential violations are occurring, or are about to occur.

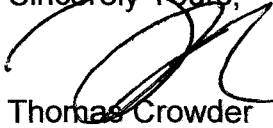
"The Civil Grand Jury recommends City Council members follow the practice of open and transparent decision-making in the spirit of the Brown Act." I would agree, and it is my opinion this has been the case. There is no evidence that proves that the Hughson City Council has not followed the Brown Act. Once again, I will state that if the Grand Jury had provided me proof, and given me the opportunity to respond, this item would not have been necessary.

Conclusion

In conclusion I am very troubled with the Grand Jury Report. I still hold strong that I did nothing wrong. I was after the truth, and when I tried to expose it to the community I became the target. As selfish as this might sound, I will gladly take the responsibility and punishment for bringing the mismanagement of the city public. I can hold my head up high, because I know in my heart I had nothing, but good intentions with my actions. I am truly sorry for the embarrassment this entire ordeal has caused the City of Hughson. However, just the same the Grand Jury holds an even more serious burden for misleading the public. The investigation that was conducted was clearly one sided, and focused on the three councilmember's. In this report, the Grand Jury ignored the cries of the city staff, and slapped them in the face by stating there was no "willful misconduct." Leading the staff to present and expose some of their deepest scars, in order to prove they were in fact victims.

I believe I have adequately addressed the appropriate findings of the report. I would challenge you to review some of the information provided and interview some of the city staff that alleged wrong doing. I would also like to be given an opportunity to clear my name of these findings. Please let me know if I can provide any additional information.

Sincerely Yours,

A handwritten signature in black ink, appearing to read 'Thomas Crowder', written over a horizontal line.

Thomas Crowder
Former Mayor and Hughson City Councilmember