



City of St. Helena

"We will conduct city affairs on behalf of our citizens
using an open and creative process."

FILED

SEP 10 2019

Clerk of the Napa Superior Court

By: C. Brennan
Deputy

August 28, 2019

The Honorable Elia Ortiz
Presiding Judge of the Civil Grand Jury
The Superior Court of California, County of Napa
825 Brown Street
Napa, CA 94559

Napa County Civil Grand Jury
c/o Foreperson Kort van Bronkhorst
1754 Second Street, Suite D
Napa, CA 94559

Re: 2018-19 Napa County Grand Jury Report "ST. HELENA: A SMALL TOWN WITH
BIG CITY PROBLEMS"

Dear Judge Ortiz and Foreperson Bronkhorst:

This City is in receipt of the Grand Jury report: "St. Helena: A Small Town with Big City Problems". The City has carefully reviewed and considered the findings and recommendations of the report. Pursuant to your June 25, 2019, request for response, at the regularly scheduled City Council meeting held on August 27, 2019, the City of St. Helena City Council approved this response.

The City's Introductory Comment:

The City responds to the Napa County Grand Jury's *Findings* and *Recommendations*, as specifically requested by the Grand Jury. The background for the Grand Jury's *Findings* and *Recommendations* is stated in its *Summary* and *Discussion* sections. The City finds itself in disagreement with several Grand Jury statements under those headings. In response, the City concluded that the best approach is to identify Grand Jury statements of concern to the City, reference them, and respond directly to them. This approach enables the City to respond succinctly to the Grand Jury's *Findings* and *Recommendations*, as required under section 933 and 933.05 of the California Penal Code. The statements of concern are listed below in the order they are presented in the Grand Jury Report. Each is labeled as SC (Statements of Concern).

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Summary (Grand Jury Report pages 2-3):

SC1 STATEMENT IN GRAND JURY REPORT: Page 2, paragraph three, fourth line, "the Upper York Creek Dam (UYCD) removal project that has been stalled since 2005..."

RESPONSE FROM CITY: Contrary to the above referenced statement, the City has made significant progress towards the removal of UYCD and restoration of surrounding habitat as noted below.

- The City has been working on this project since 2005 with actual costs-to-date of \$2.6 million. Costs-to-date include design and removal of sediment build-up upstream of the dam, ongoing design coordination with permitting agencies, and pursuing grant funds to complete the dam removal.
- The City has successfully applied for and received both federal and state grants in the amount of \$1.7 million to support completion of the project.
- The City has received all necessary permits to proceed with Phase I of the project. These permits include:
 - San Francisco Regional Water Quality Control Board – 401 Water Quality Certification Permit – issued 7/17/18
 - Army Corp of Engineers – Section 404/Nationwide Permit 27 – issued 10/10/18
 - California Department of Fish and Wildlife – 1602 Final Streambed Alteration Agreement – issued 7/3/19
- The City is preparing the Phase I bid package and has recently hired EKI to assist the City in managing the project, provide third party peer review of the plans for both Phase I and Phase II, construction assistance on Phase I, and detailed review of the permits, studies, and post construction monitoring plans.
- Phase I is anticipated to take 2-4 weeks and the goal is to start Phase I by September and have it completed by October 31, 2019.

SC2 STATEMENT IN GRAND JURY REPORT: Page 2, paragraph three, fifth line states, "...repeated water main ruptures that have caused street closures for emergency repairs..."

RESPONSE FROM THE CITY: Contrary to the above referenced statement:

- The recent street closures for emergency repairs were largely related to storm drain failures, especially in the Oak Avenue/Mitchell Drive area.

SC3 STATEMENT IN GRAND JURY REPORT: Page 3, item 1 states, "Inaccurate financial forecasting of the Unallocated General Fund."

RESPONSE FROM THE CITY:

- See *Discussion – The 10-year Long Range Financial Forecast (LRFF)* section for information contrary to the statement by the GJ - SC6 through SC13

SC4 STATEMENT IN GRAND JURY REPORT: Page 3, item 4 states, "Operation of the City water and wastewater system as "break even" commercial enterprises, as required by bond covenants."

RESPONSE FROM THE CITY: Contrary to the above referenced statement:

- There is no such language in the Bond Covenants (Covenants). The Installment Purchase Agreement for both the water and wastewater bonds requires to the maximum extent permitted by law, to fix, prescribe, and collect rates, fees and charges and manager the water and wastewater operations such that the Net Revenues in each Fiscal Year will be equal to 120% of the Annual Debt Service.

SC5 STATEMENT IN GRAND JURY REPORT: Page 3, item 7 states the City faces many issues including, "Presenting these and other similar issues to its citizens in a regular, comprehensive, and easily comprehensible manner."

RESPONSE FROM THE CITY: Contrary to the above referenced statement:

- The City routinely keeps its citizens informed about city matters through the following outlets:
 - Published Staff Reports
 - Staff reporting at City Council Meeting
 - Council discussion at noticed meetings (e.g. budget preparation, City commissions and boards, workshops, special advisory committees)
 - Email and other communications, including utility billing inserts and SHINE quarterly community newsletter
 - Formal reports such as:
 - (i) Annual Budget
 - (ii) CAFR – Comprehensive Annual Financial Report
 - (iii) PAFR – Popular Annual Financial Report. The PAFR is a new report prepared by the Finance Department for the FY 2018 audited financials. This report extracts information from the CAFR to produce a high-quality reporting tool specifically designed to be readily accessible and easily understandable to the general public

and other interested parties without a background in public finance.

(iv) Long Range Financial Forecast (LRFF)

- Public press such as the St. Helena Star and the Napa Valley Register
- The first full paragraph after point 7 begins, "Despite longstanding public knowledge of these issues..." This longstanding public knowledge has come about because the City regularly keeps its citizens informed.
- On August 12, 2019, the City received the prestigious Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association of the United States and Canada (GFOA). GFOA honored the City for delivering a CAFR that "represents a constructive spirit of full disclosure to clearly communicate the City's financial story and motivate potential users and user groups to read the CAFR."

Discussion:

The 10-year Long Range Financial Forecast (LRFF)

SC6 STATEMENT IN GRAND JURY REPORT: Bottom of page 5 and top of page 6, bullet points 1-6 states, "the LRFF is used for several purposes including, but not limited to, the following:

- To identify amounts due for unfunded pension liabilities
- To plan for payment of payroll and non-pension benefits for City workers
- To fund needed repairs to City physical assets
- To pay for emergency funding of unexpected costs, such as litigation, wildfires, earthquakes, etc.
- To support various civic projects
- To determine what new projects might be undertaken by the City"

RESPONSE FROM THE CITY: Contrary to the above referenced statement:

- The LRFF projects future expenses based on previous budget actuals, Memoranda of Understandings, Consumer Price Index (CPI) adjustments, current debt, CalPERS actuarial analysis, analysis of prior recession and budget impacts dating back to 1993, and other informational documents.
- The LRFF is not a funding document. It provides an indication of the revenue available (or absence thereof) to fund repairs and replacement of City assets, fund emergencies as they arise, and provides a forecast of the net revenue to support City projects (General Fund only).
- The LRFF provides an indication of the revenues available to support civic projects

- The LRFF does not determine new projects that might be undertaken by the City; it is strictly a financial forecast tool.

SC7 STATEMENT IN GRAND JURY REPORT: Page 6, paragraph one, first line states, "It is important to understand that the City's General Fund is divided into two parts: allocated funds and unallocated funds."

RESPONSE FROM THE CITY:

- The terms "allocated" and "unallocated" are not governmental accounting terms. There are five categories of fund balances associated with the General Fund:
 - Nonspendable
 - Restricted
 - Committed
 - Assigned
 - Unassigned

SC8 STATEMENT IN GRAND JURY REPORT: Page 6, paragraph 1, fifth line states, "Historically, the City's ratio of allocated to unallocated funds has been 2:1."

RESPONSE FROM THE CITY:

- While the terms "allocated" and "unallocated" are not governmental accounting terms, the GJ does define "allocated" as being set aside for existing liabilities the City is committed to pay such as payroll, benefits, rents, etc.
- Historically utilizing the LRFF actuals for FYs 2008 through 2018, the average of funds "allocated" has been 66%. This figure is taken from combining the following object codes: Salaries and Benefits, Health Insurance, PERS Unfunded Liabilities, Taxes, Insurance & Contributions, and Debt Service and dividing that total by the total expenses. This number does not take into account any requirements in the Transfer to Other funds such as MOUs.

SC9 STATEMENT IN GRAND JURY REPORT: Page 6, paragraph 2, second line states, "In predicting annual revenue increases each year during the 10-year period 2018-2028, the City assumes a 15%-20% annual increase of revenues each year."

RESPONSE FROM THE CITY: Contrary to the above referenced statement:

- In determining the revenue assumptions, staff analyzed revenue data trends back to 1993 which included removing one time and unanticipated

- revenues collected, when known. The data tables for this information are not part of the LRFF; however, the information was used to determine the annual revenue growth rate. This data shows from 1993 to 2017 the annual growth in revenues was 5% and, utilizing the same dates and removing the great recession, the annual growth rate increased to 6%. In analyzing the last 15 years (FYs 2003 through 2017) the annual growth rate with the recession was 4% and removing the great recession was 5%.
- The LRFF dated March 28, 2018, provided to the Grand Jury and available on the City's website, shows on Page 9 Table 7 the baseline revenue assumptions range between 1% and 5% annually.
 - Pages 31 through 33, Appendix G – Appendix L, of the LRFF show annual revenues range from -6.88% to 10.53% dependent on the scenario with the 10-year average between 3.89% and 5.18%.
 - No scenarios indicate a 15%-25% annual increase in revenues each year.

SC10 STATEMENT IN GRAND JURY REPORT: Page 6, paragraph 2, seventh line states, "The assumptions in the 2018-2028 LRFF are based only on the historically 'good years;' more recent 'bad years' that featured significant declines in City revenues were specifically excluded by the City from the most recent LRFF."

RESPONSE FROM CITY: Contrary to the above referenced statement:

- The 2018-2028 LRFF does account for the 'bad years' in the recession scenarios presented. There were six scenarios presented in the 2018-2028 LRFF, four of the scenarios included recessions, both mild and deep. A summary of the recession scenarios is on page 3 of the 2018-2028 LRFF and more detailed information is included on page 10 of the 2018-2028 LRFF. Staff analyzed revenue data trends back to 1993 which included recessions in FYs 1995, 2003, and the great recession that began in 2009. Additionally, staff analyzed the data on revenue recovery following each recession scenario.

SC11 STATEMENT IN GRAND JURY REPORT: Page 6, paragraph 4, first line states, "The 2018-2028 LRFF applied even more aggressive assumptions about revenues from Transient Occupancy Tax (TOT). First, the 2018-2028 LRFF not only assumes continued growth in the TOT from existing hotels despite current high occupancy rates, but also incorporates unreasonable growth factors in the calculation of those amounts. Secondly, it was recently reported that plans for developing a new hotel on a City-owned parcel were recently delayed [referring to Adams Street]. Finally, the planned TOT revenue assumptions do not take into consideration a possible decline in TOT revenues in the next few years as new

hotels, currently under construction and in various stages of opening in Calistoga, Yountville, and Napa, compete for clientele.”

RESPONSE FROM CITY: Contrary to the above referenced statement:

- The City applied a 5% growth for the TOT baseline, which is lower than the historical trends for TOT. The average increase for TOT from 1994 to 2017 was 9% each year (including the great recession). If the great recession is removed, the average increase was 10%.
- The recession scenarios included -5% and -3% in the mild recession and -10% and -10% for the deep recession scenario (page 9 of LRFF).
- Three additional scenarios were presented with a new, modest hotel, that has already been approved for development, in year 4 (FY 2021-22) bringing in an additional \$600,000 annually in TOT revenues.
- The GJ Report points out that the City has delayed potential hotel development on a City-owned parcel [referring to Adams Street]. However, the assumptions built into the 2018-2028 LRFF did not include a hotel on the Adams street property in the three scenarios which included a hotel in year 4. These scenarios are based on a different hotel project which has already been approved but has not pulled permits; it is not based on a hotel on the Adams Street property.
- While the LRFF TOT revenue assumptions do not take into consideration a possible decline in TOT revenues as new hotels are opened in neighboring cities it also did not take into consideration the historical increase in Average Daily Room (ADR) rates from St. Helena hotels, Bed & Breakfasts (B&Bs), and Short Term Rentals (STRs) which would partially serve to smooth revenues. The ADR for hotels and B&Bs increased from \$181 per night in FY 2012 to \$335 per night in FY 2019 and the ADR for STRs went from \$264 per night in FY 2013 to \$606 per night in FY 2019.
- In 2017, the City retained Kosmont Companies to provide municipal financial and real estate advisory services. In February 2019, Kosmont Companies presented a Hotel Market Analysis to the City Council to assist the City in evaluating the potential for new hotel development. This professional analysis confirmed that under current market conditions St. Helena has capacity for additional rooms.

SC12 STATEMENT IN GRAND JURY REPORT: Bottom of Page 6, paragraph five, first line and top of page 7, paragraph one, first paragraph states, “In addition the 2018-2028 LRFF does not discuss or analyze the constraints on City growth imposed by the Agricultural Preserve bounding the City, the political impact of an anti-hotel/anti-growth faction of City voters, or the impact of the current high vacancy rates in the downtown district. Each of these factors could also adversely affect City revenues

from TOT and sales tax, which represent two of the three foundations of City revenues.”

RESPONSE FROM CITY: Contrary to the above referenced statement:

- The 10-year forecast provides scenarios both with and without hotels. This is done to show the fiscal impact if a hotel is built. The scenario with a hotel is based on a project that the City has already approved; it does not include other unapproved hotel projects. The LRFF responsibly does not assume additional hotels beyond what has been approved.
- The vacancy rates in the downtown district, as well as other closed businesses, are considered in the LRFF. The City contracts with Avenu Insights & Analytics (Avenu) to provide sales tax revenue projections. Staff meets with Avenu on a quarterly basis to review sales tax figures, provide updates on business closures, and discuss trends, legislation, and projections. The LRFF projections for sales tax take into account actuals, information from Avenu, as well as adjustments for closed businesses.

SC13 STATEMENT IN GRAND JURY REPORT: Page 7, first full paragraph states, “...the LRFF does not present any “percent of probability,” a must-have in any financial forecast. a “percent of probability” gives the users of the forecast a better understanding of the numbers they are relying upon.../...Professional forecasts always give a percent of probability to the plan numbers. The St. Helena LRFF gives no such assessment or probability of accuracy.”

RESPONSE FROM CITY: Contrary to the above referenced statement:

- Percentage of probability is not typically done, or required, for government forecasts and is more commonly seen with investment portfolios and project operational budgets.

Unfunded Pension Liabilities

SC14 STATEMENT IN GRAND JURY REPORT: Page 7, footnote 17, “See Van Hort & Frankhanel Auditors Notes to 2014 CAFR, page iv”

RESPONSE FROM THE CITY: As a statement of correction:

- The firm which conducted the audit for FY 2014 was Terry E. Krieg, Certified Public Accountant
- Page iv of the FY 2014 audit is the table of contents
- The auditing firm of Van Lant & Fankhanel, LLP (not Van Hort & Frankhanel) began auditing the City’s financials in FY 2015.

SC15 STATEMENT IN GRAND JURY REPORT: Page 7, footnote 19, "See 2017-2027 CAFR, page 6."

RESPONSE FROM THE CITY: As a statement of correction:

- The source for the information is not the 2017-2027 CAFR, it is the 2018-2028 Long Range Financial Forecast dated March 27, 2018, page 4 (not page 6).

SC16 STATEMENT IN GRAND JURY REPORT: Page 7, fifth full paragraph, first line states, "In June 2016, the City retained Bartel and Associates, an actuarial firm specializing in the public sector, to assess the City's liabilities to CalPERS and to suggest methods to pay down this increasing debt."

RESPONSE FROM THE CITY: As a statement of correction:

- The City retained Bartel Associates, LLC in February 2018 (not June 2016) and this firm reported to City Council in August 2018. Based on the firm's analysis and a review of options, the City Council responsibly directed staff to accelerate pension liability payments to a 15-year term. The FY 2020 adopted budget includes this additional payment. On August 13, 2019, the City Council reaffirmed its commitment to accelerate payments and in fact has requested an analysis for both 15-year and 10-year repayment schedules.

SC17 STATEMENT IN GRAND JURY REPORT: Page 7, sixth full paragraph, third line states, "...the City Council said that, in the future, it would put aside one-third of the unallocated General Fund to address these liabilities. In the past however, the City has always used the majority of unallocated funds for other City projects."

RESPONSE FROM THE CITY: Contrary to the above reference statement:

- The City Council did not state it would put aside one-third but favored paying down the unfunded liabilities as if it were on a 15-year amortization schedule, as opposed to the current 30-year schedule.
- The FY 2019-20 adopted budget includes the regularly scheduled CalPERS unfunded liability payment (determined by CalPERS) as well as an additional payment to the CalPERS unfunded liability paying off the unfunded liability in a 15-year period vs. a 30-year period, which is projected to save the City \$5.2 million over 30 years.

