

**City of Riverbank
Grand Jury Case #06-06
2005-2006**

SUMMARY

The Stanislaus County Civil Grand Jury (CGJ) received a citizen complaint regarding the City of Riverbank's (City) business practices and operational procedures. The CGJ investigated the following allegations:

- The City does not implement its external auditor's recommendations consistently and/or in a timely manner.
- The City increased water and sewer rates without notification to property owners required by Proposition 218.
- The City is lax in its credit card policy...“has no receipts and no real records.”
- The City did not properly bid nor obtain approval for the purchase of a truck-mounted hydraulic crane.
- The City's accounting system did not charge employee retirement benefits to the correct accounts for the City Attorney.
- Monies to pay for projects were charged to the wrong accounts.
- The City claims that “growth will pay its way” yet it plans to reimburse a developer for installing infrastructure improvements using 40% of the sales tax revenues from a store in the development.

The CGJ interviewed the complainant, City officials, administrative staff, a representative of the City external audit firm and legal counsel in regard to Proposition 218. CGJ members also toured the City offices.

Through sworn testimony and document review, the CGJ determined that the City did not implement all the recommendations of the auditor. In some instances, audit recommendations were repeated over four years before being implemented. It should be noted that the City, over time, has implemented or is in the process of implementing the auditor's recommendations.

In 2001, the City increased their water rates. A public hearing was held, but the City failed to mail notices to the affected property owners, a violation of Proposition 218.

In reviewing procurement (credit) card statements and procedures between the period of December 2004 and November of 2005, it was found there were numerous statements that did not have the appropriate signatures and dates. In addition, it was determined that credit card holders were not always attaching receipts to their credit card statements. As a result, payments were being made without proper documentation, a violation of the City's “Procurement Card Procedures.”

A truck-mounted hydraulic crane in the amount of approximately \$100,000 was purchased through a change order and funded from the State of California Department of Water Resources Revolving Loan and was not approved by the City Council. It was discovered that the city does not have a process for Council review of major change orders to projects.

In regard to City accounts not being properly charged, the CGJ did agree with the complainant. Upon investigation, the CGJ found that the City had corrected the error prior to any funds being disbursed. Further investigation found that the City reviews charges to accounts prior to disbursement.

The City collects a growth related System Development Fee from businesses locating in a new development. In the example cited by the complainant, the original developer advanced the total development infrastructure cost. He is currently being reimbursed, not from sales tax, but from the System Development Fees paid by other businesses locating in the development. The new “growth” businesses are paying System Development Fees and therefore “paying their way.”

INTRODUCTION

The CGJ received a complaint requesting the investigation of the mishandling of funds and internal accounting procedures by the City. During the investigation other areas of concern were identified and researched.

ALLEGATIONS

1. The City does not implement its external auditor’s recommendations consistently and/or in a timely manner.
2. The City increased water and sewer rates without notification to property owners required by Proposition 218.
3. The City is lax in its credit card policy...“has no receipts and no real records.”
4. The City did not properly bid nor obtain approval for the purchase of a truck-mounted hydraulic crane.
5. The City’s accounting system did not charge employee retirement benefits to the correct accounts for the City Attorney.
6. Monies to pay for projects were charged to the wrong accounts.
7. The City claims that “growth will pay its way” yet plans to reimburse a developer for installing infrastructure improvements using 40% of the sales tax revenues from a store in the development.

METHOD OF INVESTIGATION

INTERVIEWS

1. Complainant.
2. Administrative staff and employees of the City of Riverbank.
3. Representative of the City external audit firm.
4. Legal counsel in regard to Proposition 218.

DOCUMENTS

1. 1995-2005 City of Riverbank audit reports and management letters.
2. Pre- and post-authorization forms for travel and business expenses.
3. City of Riverbank Council (Council) minutes 1996 through 2005 approving or denying the auditor's reports.
4. Bid quotations, invoice and state loan accounting documents for a truck-mounted hydraulic crane purchased in 2001.
5. Development Agreement between the City and the Browman Development Company establishing reimbursement of public infrastructure improvements.
6. Ordinance No. 2003-010 approving the reimbursement to the developer, August 11, 2003.
7. The City of Riverbank workers compensation policy.
8. List of employees who have been issued procurement cards.
9. A copy of the purchasing activity on all procurement cards for the past twelve months with pre- and post-authorizations and rationale for purchases made.
10. Current and past City policies, procedures, manuals and administrative regulations.
11. Operations and maintenance budget.
12. City of Riverbank operating expense reports.
13. 1998 City of Riverbank Sewer Bond Prospectus.
14. City of Riverbank sewer rate study, Nolte and Associates, July 1997.
15. "City of Riverbank Policies Pertaining to Norms of Operation and Rules of Order and Procedures of City Council."
16. City of Riverbank Policies and Procedures for credit cards, workers compensation, contracting, and bidding.
17. *Mayors and Council Members Resource Guide 2005*, the League of California Cities.
18. A Council resolution authorizing the City Manager to approve budget adjustments up to \$5,000.
19. City of Riverbank Out-of-State travel policy.
20. City of Riverbank Capital asset policy.
21. Assessment and Property-Related Fee Reform - Proposition 218.

SITE VISITS

1. Administrative offices of the City of Riverbank.

FINDINGS

Each allegation will be followed by the CGJ's findings.

- 1) The City does not implement its external auditor's recommendations consistently and/or in a timely manner.**

The CGJ reviewed the last ten years of audit reports and management letters (auditors recommendations) filed by the City's Auditors. The City did not receive management letters for 2001 through 2003. It was determined that not all of the recommendations made by the auditor during this period were implemented consistently and in a timely manner. The records show that in some instances the auditor made the same findings and recommendations four years in a row. During sworn testimony it was stated that auditor's recommendations are not always binding and the City can elect to implement what it thinks is important. The CGJ determined that the majority of the auditor's recommendations were either implemented or are in the process of being implemented. (Table 2)

- 2) The City increased water and sewer rates without notification to property owners required by Proposition 218.**

- Proposition 218 became law in January 1997. The following are the procedures an agency must conduct to comply with Proposition 218 before increasing fees or charges to property owners:
 1. The agency must provide written notice by mail of the proposed increase in fees or charges to property owners.
 2. The agency must conduct a public hearing on the proposed increase in fees or charges.
 3. The agency must receive voter approval to increase fees or charges with the exception of water, sewer and refuse collection fees.
- The CGJ determined, under Proposition 218, that agencies are allowed to establish a formula or use an index for fees after sending notices to the property owners and conducting a public hearing to consider rate adjustments. As a result, it can increase rates, per the formula, or index on an annual basis without notifying property owners. Since this is not considered a new fee adjustment, but a continuation of the formula or index, this provision is allowed. This automatic adjustment still needs to meet the test of collecting revenues no greater than the actual cost to provide the service. The CGJ reviewed Proposition 218 and interviewed an expert legal consultant with regard to its implementation.

- Through sworn testimony and records review, the CGJ determined that the City in 2000 increased its sewer rates (property related fees and charges) by sending notices to 4,335 property owners and conducted a public hearing. Since this was an increase in sewer rates including an annual Consumer Price Index (CPI) adjustment, the City was not required to receive voter approval. In 2001, the City also increased its water rates including the adoption of a CPI adjustment. Procedurally, for the 2001 water adjustment, the City conducted a public hearing but failed to send notices to the property owners of record as required by Proposition 218.

3) The City is lax in its credit card policy...“has no receipts and no real records.”

- The CGJ reviewed the Procurement Card Procedures approved by Council in September 2004. The procedures require that appropriate receipts be attached to the procurement card statements. The department head will review, sign, date and forward these statements to the Finance Department. The Finance Director shall review (for consistency with policy), approve, sign and date the procurement card statement. The CGJ reviewed procurement card statements from December 2004 through November 2005. It was found that there were numerous statements that did not have the appropriate signatures and/or dates (Table 3.)
- The CGJ investigation determined that the procurement card holders were not always attaching receipts to their statements.
- The CGJ reviewed the City’s Public Resource Policy (PRP), approved on April 24, 2006. The CGJ determined that the City has a policy specific to what types and categories of expenses they will pay. The PRP is a reasonably comprehensive expense policy. The CGJ noted that in the review of the procurement card statements some business lunches were being charged without complete explanation. The PRP does not set forth a definition of business lunches, nor does it establish guidelines for employees to be reimbursed for qualified business lunches.

4) The City did not properly bid nor obtain approval for the purchase of a truck-mounted hydraulic crane.

- In 2001 the City formally bid an upgrade and expansion of its Waste Water Treatment Plant (WWTP) with the bid going to Kirkwood-Bly, Inc. for \$625,700.
- The project was funded through a State of California Department of Water Resources “State Revolving Loan” in the amount of \$623,132.

- During the execution of the Kirkwood-Bly, Inc. contract several change orders resulted in a savings to the project of approximately \$100,000.
- The City was able to enhance the operation of the WWTP through the purchase of a truck-mounted hydraulic crane with the surplus funds.
- The City used its WWTP contractor, Kirkwood-Bly, Inc., to bid and purchase the crane. Table 1 reflects the results of Kirkwood-Bly, Inc.'s bidding process.

Table 1
Summary of Proposed truck-mounted Crane Bids

Item	National Model 500D	Terex Model TC3063	Manitowoc Model 1561C
Cost of truck-mounted crane	\$86,996.00	\$93,258.00	\$89,210.00
Contractor labor, material and markup	4,349.80	4,662.90	4,460.50
Contractor Quote	\$91,345.80	\$97,920.90	\$93,670.50
Freight	1,800	0	0
Sale Tax and Licensing	8,102.63	8,509.79	8,140.41
Total	\$101,248.43	\$106,430.69	\$101,810.91

The state provided close oversight of the City's purchases through an accounting of the payments to contractors and others.

- After selection of the winning crane bidder, the City made some minor enhancements to the crane specification, which did not affect the bid process.
- The project engineer, Public Works Director and the contractor, approved the Change Orders to the Kirkwood-Bly Inc. contract.
- The state approved the purchase for inclusion in the loan and paid the crane company.
- There were no funds that were expended without State approved invoices.

- From the records and sworn testimony, the CGJ determined that the City did purchase a crane for approximately \$100,000. The purchase process was accomplished through the City's WWTP contractor who received three bids. The award was made to the lowest cost bidder and payment was made by the state.
- Although the WWTP was accomplished at a lower cost, the addition of the purchase of the truck mounted hydraulic crane was a major modification to the scope of the project. The Council did not approve the change order. The City has no process for Council review of major change orders to projects.

5) The City's accounting system did not charge employee retirement benefits to the correct accounts for the City Attorney.

The CGJ investigated several accounts to test for proper charges. The 2004 records indicate a specific journal entry to the City's Retirement Account on behalf of the City Attorney. The City Attorney is not a participant in the City's retirement program. Under sworn testimony, the City's Senior Management Analyst/City Clerk reviewed the documents and did clarify that, in the report made public, an incorrect allocation was shown. The staff member also clarified that before payments are made to the retirement or insurance carriers, the personnel list and amounts are reviewed and checked for accuracy. The specific example cited was found to be in error. It was corrected and not paid as a retirement plan charge for the City Attorney.

6) Monies to pay for projects were charged to the wrong accounts.

City Account 108 is established for sewer capital improvements. An item of the WWTP expansion included \$15,649.40 for environmental mitigation. The WWTP project included repair of a collapsed levee and related environmental damage. The repair costs were charged to Account 108. This account is for future capital improvements to the existing sewer system. The required environmental mitigation was considered to be a capital improvement of the existing system and therefore an appropriate charge to Account 108.

7) The City claims that "growth will pay its way" yet it plans to reimburse a developer for installing infrastructure improvements using 40% of the sales tax revenues from a store in the development.

- The City entered into a development agreement with Browman Development Company for the Browman Development (Crossroads Community Specific Plan), Agreement No. 02-2003. The Council approved the agreement on a 3 to 0 vote with one abstention and one absent. The agreement provides for the developer to install the total public infrastructure improvements and later be reimbursed for all of his costs except for his allocated share of system development fees. The agreement provides a safety net for the developer. It

committed 40% of the sales tax revenue from a single existing Crossroad's business to reimburse the developer **if** the business park did not attract tenants as planned.

- There have been new businesses within the development paying their share of project System Development Fees, thereby making funds available to reimburse Browman Development Company as well as generating additional revenues for the community.
- Under sworn testimony, the CGJ determined that no sales tax revenues have been used to reimburse the developer. The system development fees have been collected and used for this purpose.
- As an example of "how growth is paying its way" the City just increased its single family residential System Development Fee from approximately \$11,000 to \$25,354 per lot.

RECOMMENDATIONS

Each allegation will be followed by the CGJ's recommendation.

1) The City does not implement its external auditor's recommendations consistently and/or in a timely manner.

When the auditor's report is presented to Council, the City Manager shall present an action plan for recommendations being considered for implementation. The report shall clearly justify the reasons why an audit recommendation is not going to be implemented. The Council shall review the action plan for consistency with the external auditor's recommendation. The Council shall exercise its authority to ensure the City's finance office is complying with good business practices and general accounting principles.

2) The City increased water and sewer rates without notification to property owners required by Proposition 218.

- The City shall comply with the principles and provisions of Proposition 218 when raising water, sewer and refuse collection fees and charges. Specifically, when establishing a new formula or index, the City will properly mail notices to the affected citizens and conduct legal public hearings before adjustments are made to City service charges.
- The CGJ recommends that annual "CPI index rate" adjustment be posted on the City's web site and in its offices for viewing by the public.

3) The City is lax in its credit card policy...“has no receipts and no real records.”

- The City Finance Director and employees **shall** follow the “Procurement Card Procedures” adopted by the Council in September 2004 by attaching receipts and having them properly authorized and dated. Not following the “Procurement Card Procedures” could potentially lead to litigation at the expense of the citizens of Riverbank.
- The City’s “Public Resources Policy” shall be amended to include a business lunch policy.

4) The City did not properly bid nor obtain approval for the purchase of a truck-mounted hydraulic crane.

The Council shall develop or modify its existing bidding ordinance to require any change order greater than 5% of the total project cost be submitted to Council for final approval.

5) The City’s accounting system did not charge employee retirement benefits to the correct accounts for the City Attorney.

No recommendation

6) Monies to pay for projects were charged to the wrong accounts.

No recommendation

7) The City claims that “growth will pay its way” yet it plans to reimburse a developer for installing infrastructure improvements using 40% of the sales tax revenues from a store in the development.

No recommendation

This report of the City of Riverbank is issued by the 2005-2006 Civil Grand Jury with the exception of one member of this Civil Grand Jury, who is a resident of Riverbank. This Grand Juror was excluded from all parts of the investigation, which included interviews, deliberations, and the making and acceptance of this report. This report is based on information obtained from outside sources with none of the information being obtained from the excluded Grand Juror.

**Table 2
Management Letter Recommendations**

Management Letter	1996	1997	1998	1999	2000	2004	2005
General Fund-Fund Balance Deficit	X						
Reconciliation of Cash	X			X			
Internal Controls	X	X	X	X		X	
Accounts Receivable	X	X	X				
Investment Policy	X	X					
Operating Deficits-Enterprise Funds	X	X	X				
Budgets Practices	X						
Warrant Register	X						
Self Insurance	X	X					
Encumbrances	X	X					
Consolidation of Funds-Storm Drain	X	X	X	X	X		
Account Manual	X	X	X	X	X		
Staffing-Finance	X	X					
Inactive Funds	X	X		X	X		
Community Development Block Grant	X		X				
Authorized Account Signers	X						
Outstanding Checks & Reconciliation Procedure		X					
Year 2000 Issue		X	X				
Purchase Orders				X	X		
Documentation For Manual Checks				X			
Accounts Payable Invoices				X			
Fixed Assets						X	
Credit Card Policy						X	X
Housing Grants/Loan Receivables						X	X
Budget Controls						X	
Accounting Procedures		X					
Accounting Adjustments							X

**Table 3
Credit Card Statement Findings**

Year-Month	Cardholder Signature & Date	Approving Official & Date
2004-December	Six Statements NOT Signed and NOT Dated One Statement Signed but NOT Dated	Seven Statements NOT Approved and NOT Dated
2005-January	Three Statements Signed and Dated One Statement NOT Signed and NOT Dated	Four Statements NOT Approved And NOT Dated One Statement Approved and Dated
2005-February	One Statement NOT Signed and NOT Dated Three Statement Signed and Dated One Statement Signed but NOT Dated	Five Statements NOT Approved and NOT Dated
2005-March	Four Statements Signed and Dated One Statement NOT Signed but Dated One Statement Signed but NOT Dated	Five Statements NOT Approved and NOT Dated One Statement Approved and Dated
2005-April	Five Statements Signed and Dated	Five Statements NOT Approved and NOT Dated
2005-May	Five Statements Signed and Dated One Statement Signed but NOT Dated	Five Statement NOT Approved and NOT Dated One Statement NOT Approved but Dated
2005-June	Eight Statements Signed and Dated	Eight Statements NOT Approved and NOT Dated
2005-July	Seven Statements Signed and Dated	Six Statements NOT Approved and NOT Dated One Statement Approved but NOT Dated
2005-August	One Statement Signed but NOT Dated Seven Statements Signed and Dated	Eight Statements NOT Approved and NOT Dated
2005-September	Six Statements Signed and Dated One Statement NOT Signed and NOT Dated	Seven Statements NOT Approved and NOT Dated
2005-October	Seven Statements Signed and Dated	Seven Statements NOT Approved and NOT Dated
2005-November	Four Statements Signed and Dated One Statement Signed but NOT Dated	Four Statements NOT Approved and NOT Dated One Statement Approved and Dated