



September 8, 2020

The Honorable Susan E. Green
Presiding Judge of the Sutter County Superior Court
1175 Civic Center Blvd.
Yuba City, CA 95993

Dear Judge Green:

On behalf of the Live Oak City Council, I am submitting the City Council's response to the findings and recommendations of the 2019-2020 Sutter County Grand Jury. The City Council's response also serves as the response from the Mayor, City Manager, and Finance Director. The Live Oak City Council has responded to the following reports as requested by the Sutter County Grand Jury:

- City of Live Oak – Government, Transparency, and Finances
- City of Live Oak – Public Works, Project Delivery

The Live Oak City Council would like to thank those grand jurors who took the time to participate in this process and develop the report that was provided to the City.

Sincerely,

Aaron D Palmer
City Manager

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COUNTY OF SUTTER

The 2019/2020 Sutter County Grand Jury (Grand Jury) Report of June 2020 addresses several issues regarding the City of Live Oak. The findings and recommendation, by the Grand Jury, are not based on the law that governs General Law Cities in the State of California. They are based on how “they feel” the City of Live Oak should operate. Many findings/recommendations that were suggested by the Grand Jury were already in place before the report was finalized. At no time, during the last few months of the fiscal year, did the Grand Jury contact the City and ask whether any of their potential findings were true, and if so, were they already corrected (see Penal Code Section 933.05)d)). The State of California is very clear as to how General Law Cities operate and the City’s response will show that the City is operating in an ethical and transparent way that meets and exceeds State law.

City of Live Oak Response to Sutter County Grand Jury Report June 2020 Government, Transparency, and Finances

The Grand Jury Report asserts in part that:

“The Brown Act states that any audio or video recording of a public meeting shall be provided free of charge to the public. To our knowledge, these recordings need not be in a video format, but Live Oak has chosen to use a video system to meet these requirements. Therefore, a video of every meeting - special and regular - should be available online for the length of the required record retention period. Since the minutes and video recordings are missing, this is a Brown Act infraction.”

There is then a citation to Government Code Section 54953.5. Sadly, the above quoted language is a misstatement of law and creates a false impression of violations. First of all, while it is true that a video or audio recording is a public record open to inspection, there is no “requirement” that must be “met” concerning the same. Furthermore, there is no requirement to make public records “available online”. Every city has thousands and thousands of pages of records which fall under the category of a “public record”. To suggest a city has an obligation to place its public records online would impose a nearly impossible administrative burden at incredible cost. Additionally, the Grand Jury speaks of maintaining these records online “...for the length of the required record retention period.” The Government Code Section to which they make reference (54953.5) provides that any audio or video recording “...may be erased or destroyed 30 days after the recording.” The City maintains its recordings for many months, well beyond the 30-day retention period. The assertion that “...minutes and video recordings are missing, is a Brown Act infraction” finds no justification whatsoever. Government Code Section 54953.5, cited by the Grand Jury does not require that any video or audio recording be made in the first instance. It simply provides that if such recording is made at the direction of the local agency it shall be available for public inspection (and the city fully complies with this requirement). Section 54953.5 makes no mention whatsoever of keeping “minutes”.

The same incorrect analysis continues when the Grand Jury asserts that conduct at City Council meetings violates Government Code Section 54960.1 (which exposes the City to action by the District Attorney or other party to render Council action null and void). The Grand Jury asserts