LIVE OAK
CALIFORNIA

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

Aaron D Palmer
City Manager



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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

that the City is "...open to expensive litigation and would require a re-vote, on these agenda items with no guaranty of passage a second time." The alleged factual basis is the assertion that Grand Jury members "...witnessed instances where public attendees had to interrupt proceedings to remind the Council of the need to address public comments, because they wanted to speak on the issue."

To place the assertions of the Grand Jury in proper context, an analysis of the Brown Act and Government Code Section 54960.1 is in order. The Brown Act is found in the Government Code as Sections 54950 through 54963. At the heart of the Brown Act is the requirement that meetings of a legislative body of a local agency be open and public and before the meeting an agenda of the business to be transacted or discussed at the meeting is publicly posted. There are a number of other Brown Act provisions in addition to the fundamental "open and public" provisions. Examples of these additional provisions include the location of meetings, identification of compensations or stipend, compliance with the ADA, prohibition to require "registration" to attend a meeting, allowance of video or audio recordings, allowance of broadcast of meetings, providing an opportunity for members of the public to comment and the like. Government Code Section 54960.1 provides in certain limited circumstances particular Brown Act violations could be declared null and void. There are six provisions of the Brown Act where this might occur. These are Sections 54953, 54954.2, 54954.5, 54954.6, 54956 and 54956.5. Each of these are discussed below.

Section 54953 requires all meetings of the legislative body of a local agency to be open and public. It also contains rules regarding teleconferencing, prohibition of action taken by secret ballot and certain public reports of information. The City has been at all times fully compliant with this Section nor does the Grand Jury hint or imply otherwise.

Section 54954.2 requires the posting of an agenda at least 72 hours before a regular meeting describing each item of business to be transacted or discussed at the meeting. The City has always complied with these provisions. In fact, its agendas are typically posted between Wednesday and Friday of the week before the regularly stated Wednesday meeting of the City Council. Under the Brown Act, the City would be compliant if the agenda was posted before 6:00 p.m. on the Sunday prior to a Council meeting. Under the City's practices it has given more than twice the legally required time for posting its agendas. Having studied the City's agendas, the Grand Jury is well aware of this fact and makes no suggestion to the contrary.

Section 54954.5 concerns agenda descriptions for closed session items. The City has always complied with this provision and there is no suggestion to the contrary.

Section 54954.6 provides for special noticing procedures before adopting any new or increased general tax or any new or increased assessment. There has been no such meeting held within the time frame of the Grand Jury's report and the last time the City was involved in such a process it fully complied with the notice provisions.

Section 54956 deals with agenda posting requirements for special meetings which may be called upon 24 hours' notice. The City has always been compliant with this provision and there is no suggestion to the contrary.

Section 54956.5 concerns notice to be given in the event of an emergency meeting. There have been no emergency meetings held during the time frame in question for this Grand Jury report. There is no basis under Section 54960.1 to file an action against the City unless it is for a violation of the above-referenced code sections. For example, neither the District Attorney nor any other interested person could seek to declare action of the City Council null and void for the failure to allow someone to video or audio record a meeting or for a violation of other miscellaneous Brown Act provisions referenced above.

Turning to the question of public comment, the Brown Act provides in Section 54954.3 provides inter alia that "Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public..." This has always been allowed. Agendas of the City have a specific section reserved for public comment on consent calendar items and matters related to the City's general jurisdiction. These opportunities to speak have always been allowed. With respect to specific items on the agenda, the City instituted a speaker's card policy in the later part of 2019. This has continued to the present time (with the exception of COVID-19 meetings held electronically). The Brown Act requires "an opportunity" to address the legislative body which is allowed through the speaker's cards. It is not required to announce for each and every item of business whether or not public comment is desired. (This would only be the case for a specially noticed public hearing in quasi judicial proceedings.) The Grand Jury does not identify which meetings in 2019 involved public attendees needing to remind the Council to address public comments, however, it is beyond dispute that by 2020 every person who availed themselves of the "opportunity" to comment was allowed that opportunity under the comment card system established by the City. Even if one were to assume there was some meeting where some person missed their opportunity to comment, such would not empower a court to declare action taken as "null and void" under Government Code Section 54960.1. The City would not be open to "...expensive litigation [which] would require a re-vote, on these agenda items with no guaranty of a passage a second time." If the Grand Jury truly believed at some time in 2019 the handling of public comment was exposing the City to expensive litigation under Government Code Section 54960.1, one is left to ponder why they wouldn't immediately inform the Mayor and City Manager of their opinion. Instead of waiting many months to spring the issue as a "gotcha".

The Grand Jury report concludes with a citation from the preamble to the Brown Act taken out of Government Code Section 54950. There is nothing wrong with this language, however, in the context of the report, the negative implication is somehow that the City is in violation and its citizens are not "remaining informed". This is an unfair and misleading citation since it is beyond dispute that City meetings are open and public and proper agendas are posted in advance more than double the time required by law.

The Grand Jury Report states:

> "A consultant holding both the City Manager and Finance Director positions lacks the checks and balances concerning their own contract with Live Oak and could potentially charge more than approved by the City Council."

This statement is out of context. The true context is set forth below.

In April 2018 there was an abrupt departure of the City Manager. The Finance Director agreed to a temporary City Manager assignment understanding a successor would be appointed in the near future. The City Council at the time, in light of the upcoming election, felt it would be appropriate to let the reconstituted Council make the selection of a permanent City Manager. After the 2018 election the City Finance Director/Temporary City Manager advised his Council of his desire that the Council select the permanent City Manager. The City Council immediately undertook this task and retained a firm to assist in the recruitment process. For unknown reasons, one member of the City Council without authority or authorization made contact with the recruiter. It is unknown exactly what was discussed between this Council Member and the recruiter however immediately following this interaction the recruiter took the extremely unusual step of advising the City that it declined any further representation and would not assist with the recruitment. Thereafter the City Council appointed its current City Manager as an Interim City Manager and made that appointment permanent in August of 2019.

With the proper context in mind it is obvious there was nothing amiss with the temporary appointment of the Finance Director. In fact, there are other cities whose Finance Director is the permanent City Manager (i.e. City of Calimesa). Furthermore, the Grand Jury's assertion that the Finance Director could "potentially charge more" is a statement made in a vacuum. The incumbent City Manager made in salary and benefits the amount of $191,403 as of the end of April 2018. The Finance Director appointed thereafter as Interim City Manager, charged a total of $112,080 (through the end of April 2019) of an approved $120,000 for City Manager services.

As noted on page 28, the Grand Jury report asserts that in Fiscal Year 2018-19 the budget for professional services for the Water Fund and Sewer Fund was unauthorized spending in accordance with the approved budget. The City's Budget Policy (page 2) states the following:

> *Therefore, in administering the Budget, the City Manager shall have the authority to provide each department with sufficient funding to meet its needs so long as a decision to vary from approved appropriations does not exceed, except in the case of emergencies, the total resources estimated to be available to the affected municipal fund at the time of the decision.*

The City's budget policy clearly states that the budget authority delegated to the City Manager is at the Fund Level. In FY 2018-19, the spending authority in the Water Fund and Sewer Fund were below the authorized amount by $17,079 for the Water Fund and $185,363 for the Sewer Fund. The Grand Jury mistakenly believed the authorization level is at the account expense level. The budget policy is referred to in the City's annual audit every year and on page 74 of the 2019 financial audit, the policy indicates the spending authority is at the fund level. The City's budget policy has been in place for over ten years. It is unfortunate that the Grand Jury report mischaracterizes situations without checking with city staff.

The City of Live Oak produces a Comprehensive Annual Financial Report (CAFR) which is audited by an independent auditor. As part of that audit, the Auditors also makes findings for the City to improve its financial reporting. One such finding involve a $41,000 liability in the City's Sewer Fund. The finding noted that the City needed to remove the liability and have an established process for relieving such liabilities each year. The City's Finance Department disagreed with the

finding and the Auditor admitted in their annual presentation to the City Council that the $41,000 liability was not material to the City's Sewer Fund. The liability was a minor portion of an overall potential litigation that was settled by the City. The recording and relieving of such liabilities are infrequent and rare and have only occurred one time in a seven-year period. This professional disagreement of opinion would have occurred (and the item would have been reported the same way) whether or not the Finance Director also the Interim City Manager.

There was also discussion by the Grand Jury regarding the City's annual Holiday Party. For several years the City provides an employee appreciation dinner at the holidays to thank its City employees and contractual providers. The event is budgeted for annually and the cost of this was $3,535 in 2018. The Grand Jury incorrectly noted that both the City Manager and Finance Director was required to approve expenses over $1,000. The current City procedure requires the City Manager and Finance Director to approve costs over $5,000. The Grand Jury applied the wrong dollar approval level for this citation. Since this event was below the $5,000 department head limit, it was only necessary to have the Parks and Recreation Director approve this expenditure since this was an approved, budgeted item. The City practices for department heads and managerial staff to approve items under $5,000. In fact, many years in the past the Parks & Recreation Director approved the expenses for the holiday party each year since that individual organized the event.

Under the heading "City Council meetings run amok" the Grand Jury Report devotes discussion to ethics training and economic interest disclosure (Form 700) pursuant to the Political Reform Act. Neither topic deals with how the City Council conducts its meetings. As of the time of this response all City Council members have on file with the City Clerk their requisite ethics training. Also, all five Council Members have filed their Form 700 disclosure of economic interests. Certainly, the City would hope that members of its Council would accurately file their economic disclosures in a timely fashion. That being said, the failure of an individual Council member to take such action cannot be laid at the feet of the City. If a Council member submitted a form with "discrepancies" or owned a farming business which should have been disclosed then, by all means, they should do so. The Political Reform Act and the Brown Act are different enactments.

The Grand Jury report noted that the City Council did not approve the City's annual audit report commonly known as the Comprehensive Annual Financial Report (CAFR). The report does not need City Council approval and the agenda staff report indicates the report is only informational and is to be accepted and filed. The Grand Jury quoted the minutes of the meeting of January 15, 2020 "*Council Action: Verbal comment from the City audit firm received and annual audited financial statements accepted*". Therefore, the City Council fulfilled their requirement as to the annual financial statements by accepting them as required official City annual financial report. The annual report was directly sent to each City Council member fulfilling the auditor's contract requirements.

Regarding a specific Council Meeting held August 15, 2019, the Grand Jury Report asserts:

> "From SCGJ Interviews, we were unable to confirm whether the Mayor adjourned the meeting."

The Grand Jury does not recognize that when business is pending, the Mayor does not have authority to unilaterally adjourn a meeting. Live Oak Municipal Code Section 2.04.040(d)(2)(iv) provides "Any Council Member may move to adjourn at any time, even if there is business pending. The motion must be seconded and a majority vote is required for passage." There was neither a motion, a second nor a majority vote to adjourn the meeting. This is undisputed. The unanimous vote of three Council Members was sufficient to take action. Minutes of this meeting were approved. There is no need to record Council meetings. (See discussion below.)

The Grand Jury Report addresses professional service contracts with the City concerning its professional accounting services, planning and development, legal matters, financial advice and information technology. The report asserts that saving money should be the driving force behind contracts for professional services. The report references "control total spending", "less expensive option" and "save money" (twice). The report acknowledges that price is not the driving concern for professional services ("Although professional services do not require rebidding by law...") and then disregards that this is the case. Government Code Section 37103 provides:

> "The legislative body may contract with any specially trained and experienced person, firm, or corporation for special services and advice in financial, economic, accounting, engineering, legal, or administrative matters. It may pay such compensation to these experts as it deems proper."

Additionally, although the Grand Jury generally references costs, the Report does not actually analyze any of the City's professional service contracts to conclude whether the costs to the City are reasonable and proper. The Grand Jury asserts with no citation of authority that professional service contracts should, as a "best practice" include "term limitations", "fee caps" and "liability insurance". There is no distinction between those professionals who actually serve as City officials and those who might be hired for a one-time project with a definitive timeline. There is a difference between a consulting engineer retained to design plans and specifications for a specific Public Works project (wherein such clauses might be advisable) as compared to those professionals who actually serve as a City official.

For example, a City Attorney, including one who contracts for legal services, is not a "consultant" but is considered a "public officer" (*People Ex Rel Clancy v Superior Court* (1985) 39 Cal 3rd 740, 747 (holding City Attorney was a "public officer" despite retainer agreement characterizing attorney as an independent contractor); *People Ex Rel Chapman v Rapsey* (1940) 16 Cal 2nd 636, 640 ("A City Attorney ... is a public officer occupying a public office under the law of this State,"). Furthermore, the relationship of a City Attorney to its City Council is that of lawyer/client, which is extensively regulated by the State Bar Act, to include a separate set of ethics rules. For this reason, City Attorneys are not subject to oversight or administration by a City Manager. For these reasons it is neither typical nor expected that a City Attorney would have "term limits". To the contrary, assuming the City's Attorney (who serves at the pleasure of the Council and may be discharged at any time without cause) performs as satisfactorily, many City attorneys serve their

City Councils until their retirement. Furthermore, the scope of duties for City attorneys are prescribed by statute (see Government Code Sections 41801 through 41805) to include advice to City officials in all legal matters pertaining to City business, the framing of ordinances and resolutions required by the legislative body and to perform any other services required from time to time. Because the City Attorney is a Public Official they are entitled to defense and indemnification from the City as to suits concerning acts or omissions arising out of the course and scope of their employment *(Firemen's Fund Insurance Company v City of Turlock* (1985) 170 Cal App 3rd 988). As noted in the Grand Jury's Report, the current City Attorney had not had a fee increase for over a decade when the amount was adjusted in 2014. The base retainer for the Live Oak City Attorney is $48,000 annually. Research has shown that Cities with similar populations and annual budgets will budget $60,000 to $80,000 for City Attorney services.

Turning to the contract for professional accounting services, the Grand Jury states "Once the Finance Director became the Interim City Manager for the 2018-19 Fiscal Year, this added an additional $120,000 per year income to the Consultant's annual billing of $190,000 on average." This statement is entirely out of context as has been discussed above. The Finance Director was appointed to a temporary position (and some cities have a permanent Finance Directory/City Manager) which was resolved by the incoming City Council following the election of 2018. The Grand Jury asserts that it "...was unable to verify whether overcharges were made." Such a statement is untrue. Charges for accounting services and City Manager services were kept separate for Fiscal Year 2018-19 the City was charged $183,000 for accounting services and $112,080 (April 2018 through April 2019) for City Manager services. The total salary and benefits for the City's Finance Director, prior to his departure, in 2014 was an annual cost of $217,000. The total annual salary and benefits of the former City Manager as of April 2018 was $191,403. During the time where the contract finance director performed City Manager duties, the City's Finance Manager signed off on the Vavrinek Trine Day & Co. invoices. All paid invoices were summarized for the City Council twice a month during this timeframe. The Grand Jury had full access to the City's financial records as well as the ability to interview City staff. There is no basis for them to assert that they were unable to "verify" anything related to the City's finances.

The Grand Jury also made no inquiry as to the qualitative satisfaction of the City with its professionals. The City does not believe there is anyone who, confronted with a significant legal issue, would think: "Quick, find me the CHEAPEST lawyer (or accountant, or engineer, or other professional) out there." As noted above, cost is not the determinative factor in retaining a professional and, as a matter of fact, to paraphrase the Grand Jury, the City has been "getting its money's worth" (a fact which the Grand Jury has avoided to report upon).

In fact, for those professionals who truly serve as a "consultant" and not as a City Official (such as an engineer designing plans and specifications for a defined project as noted above) the City does utilize an "Agreement for Professional Services". For example, a recent agreement between the City and Municipal Resources Group LLC sets forth a detailed Scope of Services (Section 1). There is a Time for Performance with termination provisions (Sections 2 and 6). The compensation is specified with a not to exceed amount of $20,000 (Section 3). The agreement provides that no additional services will be allowed "... without prior written authorization from City..." (paragraph 5). Thus, for professionals who do not function as City Officials, the City has been utilizing agreements which the Grand Jury asserts to be "best practices". The City will always

need professional accounting services. Title 3 of the Municipal Code deals exclusively with finance. Various statutory and other duties have been assigned to a "Director of Finance" (Live Oak Municipal Code 3.02.040). In the absence of a City employee filling this role, a professional who contracts to provide these services would be a City Official with ongoing jurisdiction over the City's Finance Department. The same holds true for planning services. The City has in its Code created a permanent Planning Commission (Chapter 12.12) as well as Title 16 (Subdivisions) and Title 17 (Zoning). A planning professional (whether employed directly or by agreement) would have an ongoing and continuing jurisdiction to fulfill the City's planning needs. For the same reason, the City will always require engineering services and its City Engineer (whether employed directly or as a professional by agreement) will be a City Official with ongoing jurisdiction. The same holds true for a City Attorney inasmuch as there will always be ordinances, contracts, legal memoranda and similar legal matters which arise on a continuous basis.

As a matter of practice, the City has more frequently used a standard professional services agreement template provided by the City since the departure of the predecessing City Manager that departed in April 2018. This agreement template was used for the agreements for Vavrinek Trine Day & Co. (Aug 2018), Interwest Consulting (Oct 2018), Interwest Consulting (June 2019), ControlPoint Engineering (Apr 2020) and Bartel Associates (June 2020). The use of the professional services agreement were for several items submitted for City Council agenda and for items only requiring City Manager approval as noted in the Bartel Associate agreement for $9,000. The City has already been using the professional services agreement well in advance of the Grand Jury finding.

The Grand Jury report cites that a resolution was made to transfer $200,000 from the general Fund each year for five years. The City Clerk records clearly indicate that even though a motion was made to make these annual $200,000 transfers, the motion was never approved by the City Council. Therefore, no $200,000 transfers were ever made.

The Grand Jury report shows that the Water Fund is underfunded, and the Water Fund does not comply with the water loan covenants. In fact, the City Staff has been informing the City Council of these facts since 2016 in public meetings and part of periodical financial reports and budget presentations. Since 2017, City staff recommended seven separate actions to implement some portion of the rate study with the City Council only approving one of the seven actions. The only approved action reduced the sewer charge for 3 commercial customers as cited by the rate study.

FINDINGS

F1. Disagree. This finding is not substantiated. The Grand Jury Report is entirely out of context.

F2. Disagree. The assertion of "overspending" was never addressed in any fashion by the Grand Jury. In fact, the City is getting its money's worth with its professional contracts.

F3. Disagree. All members of the City Council have their ethics training certificates on file with the City Clerk.

F4. The City is not in a position to respond to this finding. Each individual Council Member would presumably have personal knowledge as to their financial positions. This is not an issue the City can control. All five of the City's Council Members have on file current Form 700s.

F5. Disagree. This "finding" has no basis in the law. There is no legal requirement to create any video recordings. If created they may be destroyed after 30 days. There is no requirement to post video recordings online. Because there is no requirement to create a video recording in the first instance it is impossible for them to be "incomplete" (if there is only a partial recording of a Council meeting this is of no moment because there is no obligation to record <u>any portion</u> of a Council meeting).

F6. Disagree. This finding cannot be sustained. The Grand Jury Report is full of non-sequiturs.

F7. Disagree. The Grand Jury Report makes no reference to service contracts. The assertion of "best practices" is misplaced. The Grand Jury did not analyze the fact that the City's professional contracts are proper and reasonable. Furthermore, as to Consultant Agreements not involving City Officials, the City uses a contractual template which contain the clauses in question.

F8. Disagree. This "finding" is nothing more than an argument and an attempt to embellish "finding" 7 above. Some professional relationships do not lend themselves to "term limitations" and the services to be provided are well defined by statute in addition to what might be set forth in an agreement. Again, the City utilizes a form of contract for its consultants (who are not City Officials) which contain the suggested clauses.

F9. Agree.

F10. Agree.

RECOMMENDATIONS

R1. The recommendation has been implemented. Such an ordinance already exists.

R2. The recommendation will not be implemented as it is not warranted. See discussion in response as well as response to above findings.

R3. This is not a City issue but would be applicable to an individual Council Member for their consideration.

R4. This is not a City issue but would be applicable to an individual Council Member for their consideration.

R5. The recommendation will not be implemented as it is not warranted. The City is under no obligation to create audio or video recordings. That being said, the City is in consultation with a firm to upgrade the City's current audio and video recording system.

R6. The subject of this recommendation was not addressed in the Grand Jury's Report. The recommendation will not be implemented as it is not warranted. That being said, there is no question that four members of the City Council are courteous and strive to live within the City's rules of Parliamentary procedure (which are fully adequate for the conduct of the City's meetings). In 2020 the Mayor has issued various memoranda to his fellow Council Members regarding procedure. There is no question that the four courteous members of the Council have strived to live within the rules. The Council as a body does not have the authority to expel one of its elected members.

R7. The recommendation will not be implemented as it is not warranted. See response to the Grand Jury's Report.

R8. The recommendation will not be implemented as it is not warranted. This is simply a recapitulation of recommendation 2 and recommendation 7. The provisions referenced herein do not reflect universal "best practices". The Grand Jury fails to distinguish between professional arrangements for those who function as a City Official versus a true consultant contract wherein the City already utilizes a contractual template similar to the suggestions in question.

R9. The recommendation will be implemented. City Council will work with staff to develop and implement water rates that put the Water Fund into a positive balance and bring loan covenants into compliance by June 30, 2021.

R10. The recommendation will be implemented. See R9 response above.

**City of Live Oak Response to Sutter County Grand Jury Report June 2020**
**Public Works, Project Delivery**

The "Welcome to Live Oak" entry signs were purchased by the City by a former administration. The signs were purchased before land was acquired to place the signs. At this time, the City has obtained land at the north end of the City to place one of the "Welcome" signs. However, the City does not have acceptable land to place a sign in the south end of the City. Also, CalTrans has begun construction on the Highway 99 Project through the City of Live Oak. It would be unwise to place these signs until after the construction. This project will take an estimated twenty-four months to complete. During this period, the City will continue to locate land in the south part of the City to place its "Welcome" sign.

In March of 2017, the City submitted an application to the State Water Resources Control Board (SWRCB) to fund the City's Wastewater Treatment Plant (WWTP) Solar Project. For three years after the submittal of the application, the application sat at the SWCRB. City staff continued to work with the SWRCB to answer questions and provide updated information while continuing to ask the status of the funding agreement and move the project along. The City was unable to perform any work on the project prior to receiving a fully executed funding agreement from the SWRCB. The SWRCB provided a fully executed Funding Agreement to the City of Live Oak on May 18, 2020. Now that the agreement has been fully executed by the State and the City, the City has begun to clear environmental issues for the project in order to submit a Request for Proposals for design of the project. The City was constantly monitoring this project. At one point in the process, the City waited for over a year for the State to send the final contract for the City to sign.

In January of 2014, the City received a grant from the State Community Development Block Grant Program (CDBG) to perform a well siting study to determine the most appropriate location for a new municipal well. West Yost Associates was selected to perform that study and provided a finished study to the City April 2, 2015. In 2014, the City also applied for funding in coordination with Shasta County to construct Well 7 through the California Department of Water Resources Proposition 84 IRWM Program. Funding was awarded in the summer of 2015, and the City began work on the project. West Yost was again selected and began work on the design of the Well 7 project.

In mid-2016 a preliminary design report was completed, and well drilling followed. Wet weather and well production issues slowed the well drilling process. Following initial completion and swabbing of the well, test pump production rates were below expectations. Attempts to increase production through conventional means failed. Eventually, the bottom of the well casing was removed, and the well depth was extended resulting in acceptable production rates in mid-2017.

Pilot testing for arsenic removal followed. Initial pilot testing failed to remove arsenic to the level required by the state. A second pilot test was successful, and a completed report and preliminary treatment plant design were provided at the end of 2017. The preliminary treatment plant design was larger and more costly than expected. The treatment plant was redesigned with a smaller

footprint and fewer treatment vessels and manufacturing began in the second half of 2018 with delivery in mid-2019.

Delays and City Staffing issues stalled the project completion until late 2019 when the City brought in a consulting engineering firm to get the project back on track and completed. As of the preparation of this response there have been some slight delays due to the COVID-19 pandemic, but the project is scheduled for full completion in mid-September 2020. Grant extension have been received in order to maintain the secured funding for the project.

Once the previous City Manager left the City in April of 2018, staff held a workshop on April 25, 2018 with the City Council on all capital projects within the City. The City Council was informed about the status of all City capital projects, including Well 7. City Staff informed the City Council, at the workshop, of all project overruns, including Well 7. At that time, all of the main contracts had been issued for Well 7 and the cost overrun amount for Well 7 was $300,000 (based upon information at that time). The well was waiting for the delivery and assembly of the filtration system in April 2018. The majority of the cost overrun was attributed to the engineering contract for West Yost Engineering.

At the January 15, 2020 City Council Meeting, staff gave the City Council a full history and status update of the Well 7 project. The City's contract City Engineer gave a complete history report on the project. The City's new project engineering firm gave a status update with milestones and projected completion date.

The City has since hired a permanent City Manager (August 2019). Since that time, The Pennington Water Main project was completed (December 2019). Well 7 is scheduled for completion and to be put in production no later than the end of September 2020. The new City Manager had an expert consultant evaluate and produce a report on all City sewer lift stations and rank in order of priority replacement/major repair. The sewer lift station at 'P' street has gone out to bid for engineering design and the bid will be awarded at the September 16, 2020 City Council Meeting. The solar project at the wastewater treatment plant now has a completed executed agreement with the State of California. Staff is now clearing environmental conditions and then the project will go out to bid.

FINDINGS

F1. Agree. The City has had a number of delays on Public Works projects. However, the City Council has hired a new City Manager who has informed the Council as to the status of all outstanding Public Works projects as well as those Public Works projects that will be shorting in the near future. The City Council also receives a quarterly projects Status report on all capital projects.

F2. Partially disagree. Since April 2018, the City Council has received reports on all City capital projects. Also, the City Council receives a Quarterly Project Status report (started December 2019).

F3. Partially disagree. From April 2018 until August 2019, the City had Interim City Managers to keep the City going. In August of 2019, the City hired a permanent City Manager. With this new leadership, the City now has projects on target to be completed or have been completed.

F4. Partially disagree. Since 2018, the City Council hears about these projects during the capital budget portion of the annual budget approval process. There have been items on the Council agenda addressing capital projects as well as the quarterly report the City Council receives. The City Council is up to date on all capital projects within the City.

F5. Agree. See City response to F1 above.

RECOMMENDATIONS

R1. The recommendation has been implemented. The City Council began receiving a quarterly project status report starting in December 2019. The Water, Sewer, and Storm Drain Committee was never disbanded. They meet as needed to discuss such issues and make recommendations to staff as to what issues and projects to bring before the City Council. All recommendation made by this committee will be added to the quarterly project status report.

R2. The recommendation has been implemented. With the hiring of a new, permanent City Manager, the new City Manager is holding executive staff and consultants responsible for all projects. Agreements include the necessary timelines, insurance requirements, and costs that will allow the City to hold consultants and contractors responsible for any and all project deficiencies and delays.

R3. The recommendation has been implemented. City Staff has been instructed to ensure all future City Capital projects will include all the necessary timelines, milestones, penalties, and costs.

R4. The recommendation will not be implemented as it is not warranted. The Quarterly Projects Status Report is placed on the last Council Meeting agenda of the quarter. So, not only does the City Council receive this report, the public has access to this report as well.