

RESPONSE TO GRAND JURY

Before responding to the specific Grand Jury findings and recommendations, a short narrative of the entire Wastewater Treatment Plant (WWTP) history is in order. This, hopefully, will lay the groundwork for our responses.

Crescent City has had a sewer collection system since the 1930's, maybe even earlier. Until the late 1950's there was little or no treatment of the wastewater collected. It was discharged to the ocean off the westerly end of Second Street. This was considered acceptable by the regulatory agencies at that time.

In 1957, the City issued bonds for the purchase and improvement of the water system and to construct its first wastewater treatment plant (WWTP). That plant provided primary treatment, which was acceptable 50 years ago. This plant and its collection system served the incorporated City only. The unincorporated areas used individual septic tank systems.

By 1970 wastewater regulations had changed significantly. Primary treatment alone was no longer acceptable under Federal and State law. The City then proceeded to plan for a WWTP to meet the new regulatory requirements and future needs of the City and Harbor District, which was by then connected to the City system. The unincorporated areas remained on septic tanks, but were coming under regulatory pressure to connect to a public wastewater treatment plant.

In 1973 the first phase of the City's new WWTP began construction. This provided an upgraded primary treatment and pretreatment of the fish processing wastewater. Still, the unincorporated areas were not served by a public WWTP.

As soon as this first phase was completed (1975), planning for the second phase began. The County was also planning for public sewers to serve the Northcrest area and the Bertsch Ocean View area. The final City and County Services Area (CSA) plans called for a single WWTP to treat all the wastewater from the City, Harbor and CSA. Construction of the new WWTP began in 1979 as did the CSA collection systems. That plant had a 25-year design life.

In 1994, the Regional Water Quality Control Board issued a new Waste Discharge Permit for the WWTP, which reflected changes in the law and regulations. The changes were more restrictive and included changes for which the WWTP had not been designed.

In 1997, the Regional Water Quality Control Board issued the first of what was to be a series of Cease and Desist Orders (CDO). The CDO was issued because of discharge violations. The violations were due to excessive winter groundwater leakage (infiltration and inflow), community growth, industrial discharges, obsolescence (the WWTP was now approaching its 25 year life), and due to regulatory changes. The first CDO severely limited the number of future connections to the WWTP.

The City made improvements to the WWTP as it sought funding for what was clearly going to be another upgrade/expansion of the WWTP to again meet regulatory requirements and community needs. A planning report covering the general wastewater needs for the County and City was completed in late 2000. As a result of these actions by the City (improvements and the planning progress), the CDO was modified to allow more connections.

By early 2001 the City had selected a consultant to complete the detailed planning and then design of a new WWTP. While funded by the City, this new planning effort was done with close coordination with the County, Harbor and other interested parties. Numerous options were considered for the WWTP location, treatment process, design life, and means of financing.

Several workshops and public meetings were held during the planning process. By mid-2003 the draft planning report for a new WWTP was completed. In August 2003, a special Council meeting/workshop was held to present the draft planning report and to receive input for final report. This workshop was noticed by publication in the local newspaper on three separate occasions, posted on the city website, in the City newsletter and letters to all property owners within 500 feet of the WWTP. This notification process was not required, but was done to give the public an opportunity to provide input when there was enough information to discuss the issues and enough time to make changes before major decisions were made.

There were several important issues to be decided, not the least of which was how to fund a \$63 million project. (Please note the estimated cost--\$63 million). The report discussed several financing scenarios. Grant funds were drying up and it was expected that most of the WWTP funding would have to come from a State Revolving Fund (SRF) loan to be paid from increased sewer user fees. The estimated rate increase, as presented in the 2003 report, was about \$40 per month.

In October 2003, after a noticed public hearing and receipt of further public input the Project report was adopted. There was nominal input as most the issues had been dealt with as a result of the August 2003 workshop.

In 2004, it became painfully evident that very little grant money was available. Pressure by the Regional Water Quality Control Board to upgrade the WWTP remained. Therefore, the City initiated (as once suggested from public input), a design review of the Project to be made by an independent engineering firm. This review was to determine where cost savings might be possible. Some savings were found, but the basic Project, that is its location and treatment process remained as originally planned. Preparation of the plans, specifications and contract documents then began. Also, an application for a \$19 million SRF loan was submitted for the first phase of the new WWTP improvement.

By the end of 2005, the plans and specifications were completed. The Project was ready to be bid. However, the SRF loan application was moving slowly. Efforts to secure grants were still under way.

Also, during this time (2004-2006), the City took actions to improve performance of the WWTP, such as the installation of new effluent discharge pumps, a water conservation program, an infiltration reduction program and a new ocean outfall line. Due to these actions the Regional Water Quality Control Board allowed additional connection to the WWTP thereby allowing community development to continue.

In late 2006 bids for construction of the new WWTP were formally requested. The engineer's cost estimate at that time was about \$30 million. In February 2007, only one bid, for \$37 million, was received. Wahlund Construction of Eureka was the lone bidder.

The design engineers were consulted about the cost. Discussions were held with Wahlund and the engineers to determine how the cost could be reduced. Some minor changes were made. The engineers advised that the cost of WWTP's had, for reasons not fully understood, taken a huge jump in the short time preceding and during the bid period. Other public agencies were experiencing similar substantial cost increases.

In March 2007, the City Council, after receiving staff, consultant and public input, awarded the contract for the new WWTP to Wahlund. It was believed that rebidding the project would not reduce the bid significantly, and there was the very real risk of an even higher bid. Construction began in May 2007 and continues today with an expected completion date of June 2010.

In 2003 when the feasibility report was approved, sewer rate increases were not subject to Proposition 218. On July 24, 2006 the State Supreme Court ruled, in the "Bighorn" case, that certain water rate increases were subject to the "218 process". It took several months for the full implications of that ruling to be understood. At that same time the City was in transition with its City Attorney. It wasn't until mid-2007 that it was determined that the "Bighorn" decision applied to the proposed City sewer rate increase. This was a new requirement. The contract had been awarded and construction had begun.

Because a "218 process" had never been required before, the procedures and databases had never been developed. There was considerable time pressure to complete this process. Also, the City made the "mistake" of allowing protests from persons not entitled to do so under a strict reading of Proposition 218. All of these lead to public confusion. In the end, 1310 protests were received, which was short of the 1711 protests required to stop the rate increase. The Council then voted to raise the rates.

(As an aside, there have been allegations of 160 (+/-) protests not being counted. There has never been any validation of that. However, even if there were 160 uncounted protests, the total count would have been 1470 protests which is still less than the 1711 needed.)

In November 2007, after SRF Board approval, the City Council accepted a \$43.5 million loan with an interest rate of only 2.4% and no payments for two years. These were far

and away the best loan terms available. To pay the loan, sewer rates would have to be increased, but this, and the amount of the increase, had been known since 2003.

In 2008, a consultant was retained to review the existing and possible future rates to fund the WWTP operating costs, loan repayment, etc. An Ad Hoc Committee, appointed by the Council, was involved in the rate review and provided significant input to the Council. The report, accepted by the City Council in October 2008, found that the 2007 adopted rates were, in fact, about what they should be. No further change in the monthly service rates was made. There was, however, a significant increase in the “connection charge”.

At this point, the WWTP improvement project is under construction and expected to be completed by about June 2010. The City is closely monitoring the contractor’s work and has managed to keep the costs below the original bid. Also, existing personnel are being trained and additional personnel are being hired to operate the new much more complex facility.

In summary, the City Council feels that over the years the City has fulfilled its responsibility to its citizens and the citizens of the surrounding unincorporated community by providing needed public utility services, including both water and wastewater. This has not always gone smoothly, but the good of the entire community has always been the goal. Much of the development in and around the City exists because these services have been available.

The City was not obligated to provide these services outside its boundaries, but chose to do so. The City has also tried to stay ahead of the ever-changing regulations.

Mistakes have been made, but the motives were always right. There have been contentious times as the City sought to do what it thought was best, but those have always been worked through for the good of the community.

We appreciate the Grand Jury’s effort, suggestions and recommendations. We accept them in the spirit of constructive criticism with the goal to always improve and do a better job in the future.

The following is our response to your Findings and Recommendations. For some of our comments you will need to refer back to the above narrative.

Summary of Grand Jury Findings and Recommendations And City Response

1. Evolution of the WWTP Design

Findings

- The basic design for the current composition and configuration of the WWTP was essentially complete by the end of 2004.
- All major design and composition decisions leading to the current WWTP configuration were submitted to—and made by—a succession of City Councils in open meetings with opportunity for Public Comment.
- The written City records reflect no significant Council or Public critique or denial of these design, composition, or configuration proposals.

City Response: For these Findings we basically agree, but must comment on the third Finding. There was, in our opinion, significant public input. The record may not reflect the detail you desire, but that can be attributed in part to the relative lack of controversy and in part to a philosophy of record keeping. The minutes are intended to primarily reflect the actions taken, not be a verbatim transcript. There are, however, recorded audio/visual records of all regular Council meetings today. They can be reviewed on the City website when one desires more detail than the written “formal” minutes show.

Recommendations

- That future City Council deliberations regarding projects involving significant expenditure be subjected to more scrutiny and, if appropriate, skepticism.
- That highly technical matters up for decision be aired more fully with both the Council and the Public, bringing in subject matter experts to assist in making the issues more understandable to laymen. Recent “workshop” efforts such as that conducted with the sewer rate “Ad Hoc Committee” could prove useful.
- On highly technical issues, sufficient decision “lead time” should be required—to permit the full airing described above. At all events, a “rush to judgment” should be avoided.

City Response: Generally, we agree with these recommendations, but some are based on 20/20 hindsight. Public hearings and workshops were held, questions were asked, but some were after the fact. The “rush to judgment” is valid, but the circumstances almost required it. The Prop 218 process was a new requirement that came to light late in the process, and that resulted in some major decisions having to be made quickly. Your implied recommendation for more public hearings, workshops and use of Ad Hoc Committees will be considered for future major projects.

2. Sewer Connection Limitations and Growth

Findings

- Close and consistent interaction between staffs of City, County and RWQCB was largely responsible for maintaining an adequate level of sewer connections available under CDO's.
- While completion of WWTP improvements and upgrades to solve the effluent and overflow problems was the ultimate solution to the CDO issue, the key to maintaining RWQCB approval of incremental allowances of additional connections was steady improvement of existing conditions—such as outfall maintenance and new construction, and industrial pretreatment.
- At no time during the period reviewed was there a serious threat of “shutdown,” or recall of existing connection allowances.

City Response: We agree with these Findings.

Recommendations

- That the City continue its steady progress toward enforcement of a comprehensive industrial pre-treatment ordinance.
- That the current and future City Councils keep abreast of more stringent State and Federal effluent control requirements now under consideration, such as revisions to the existing “Ocean Plan” and regulations covering urban area septic systems—in order to ensure that appropriate measures are taken to assist the WWTP in meeting its goals.
- That the City staff be encouraged continue its close working relationship with RWQCB staff, and that senior City management and Council support be provided to that relationship whenever needed.

City Response: We agree with these recommendations. We expect the City Staff, specifically the Director of Public Works and Wastewater Plant Supervisor to keep abreast of pending regulation changes and provide regular reports to the City Manager and City Council on upcoming regulation changes.

3. Escalation of WWTP Cost Estimates

Findings

- The number and variety of cost estimates for the WWTP Project from 2003-2007 made it difficult for the Council and the Public to keep track of where the City was with respect to the ultimate cost of the Project.

- Senior City staff made little effective effort to place these widely varying figures in perspective for both the Council and the Public.
- Too much responsibility was delegated to the Department of Public Works, which was focused on getting the Project done, rather than on keeping open the necessary lines of clear communication with the rest of the City.
- There was a breakdown in effective communication with the Public and—as far as the Grand Jury can tell from the available written record--the Council regarding the changing cost estimates in the crucial period from October 2006 to March 2007.
- This “communication problem” was a major contributing factor to the surprise, disappointment and resentment evident in the Public reaction to the bidding outcome and the Council’s acceptance of it.
- There is no indication on the written record that, when the Council accepted the Wahlund bid on March 19, 2007, they exercised the options presented to them in December 2006 (see above).
- At present, owing to the failure of the City staff to produce a written record of what the Council was told prior to its March 19, 2007, acceptance of the Wahlund bid, it is impossible for the Grand Jury to determine why the Council chose to do so.

City Response: We agree that documentation could have been better. We disagree that the Council didn’t have adequate cost estimate information. We didn’t like what we saw, but the information was available and considered in making our decisions. Part of the issue here is, again, the matter of how much is to be included in the “official” Council minutes.

A review of the audiotapes of the March 19, 2007 Council meeting shows that there was discussion of costs and treatment plant design options. The Council was very concerned about the cost increase and rate increases that would be the result. They explored the possibility of a revised plant design, the possibility of construction by City employed crews, and the wisdom of rebidding the project. In the end, they believed the risks of delay associated with redesign, self construction or rebidding overshadowed the possible benefits. Those risks included possible even higher costs/bids, possible fines from the Regional Water Quality Control Board for non-compliance and loss of very favorable financing through the SRF program.

It is debatable whether too much responsibility was placed on the Public Works Department, but clearly the Department should be commended for taking action rather than doing nothing. A “do nothing” approach could well have had severe consequences from the Regional Water Quality Control Board for failure to make improvements to the WWTP.

Recommendations

- That the current and future City Councils become more involved in the technical details of large project financing and management.

- That Senior City staff, including the City Manager, City Attorney and Finance Director become more directly involved in oversight of, and communications about, major City projects with implications that reach beyond the City limits, such as utilities, housing and development.
- That a greater atmosphere of “transparency” with the Public regarding interim developments of large City projects be fostered—to preclude future “surprise” such as occurred with respect to the escalated cost of the WWTP Project.
- That current and future Councils be more inquisitive, and question closely, the information provided by staff and consultants on major projects.
- That Council meeting minutes be revised and expanded to provide more detail about why decisions are reached, and on what advice. An example of improved practice would be the County Planning Commission’s Public Hearing Minutes, which are far more detailed, and furnish an understanding of why certain decisions were reached. How improve?
- That the City produce the “missing” documents from the official March 19, 2007, Council Agenda Packet regarding the Wahlund bid.

City Response: We, generally, agree with these recommendations. We will instruct our Staff to develop a Public Information program for any future major project. This would be designed for each project but would plan how the public will be involved and provide input as a major project progresses through planning and design.

We disagree with the need to expand the content of the Council Minutes. We do have audio/visual recordings that will be maintained for future reference. The “official” minutes will continue to focus on recording the final actions not all the detail of every discussion.

4. Conduct of the Proposition 218 Sewer Rate Increase Poll

Findings

- The City Council did not receive timely warning and advise from the City staff regarding the new requirement for a Prop 218 process to approve the sewer rate increase that was needed to secure a SRF Loan to cover the cost of WWTP construction.
- The apparent delay—from August 2006 to May 2007—in notifying the Council of changes in the Prop 218 requirements for utility rate increases reflected a lack of ongoing awareness of the regulatory environment in which the City was operating.
- Having entered into a \$37 million construction contract, apparently without awareness of the Prop 218 requirement, the City had to rush to devise and implement a Prop 218-compliant Public approval/disapproval process.
- In so doing, the City also had to overcome the deep suspicion and resentment among the Public regarding the “Wahlund surprise” that resulted from the apparent “failure of communications” discussed previously.

- The various outreach efforts conducted by the City Council and staff regarding WWTP funding in the period leading up to the sewer rate poll were not focused on explaining the mechanics of the Prop 218 poll process itself.
- Actions taken by the Council to define—and later expand—the field of eligible “objectors” to the rate increase, was poorly coordinated and, though well-intentioned, resulted in considerable confusion as to how the poll would be conducted and whose objections would be counted.
- The poll instrument (mailer) itself was poorly designed and confusing, not only complicating the process, but also undermining Public confidence in the outcome.
- The incompatibility of the County and City databases needed to establish the eligibility of “objectors” was a significant problem that needs to be addressed before any future Prop 218 polling is conducted.
- The actual count of “objections” was performed according to a logical methodology, and adhered to the requirements of Prop 218. That some objections were set aside appears due to Prop 218 restriction and database incompatibility problems.
- Prop 218 interpretations are evolving. The City Council and staff should remain current regarding significant regulatory changes that would affect City business.

City Response: Admittedly, the “218 process” did not go well. There were many contributing factors, such as (1) this was due to it being the first time the City ever had to go through the process and therefore procedures and data bases were not in place, (2) the rapidly increasing/changing WWTP project costs did not help, (3) the timing could not have been much worse, that is, while already deeply committed to a mandated project and being in transition in legal staff, (4) add to this the City’s attempt to be “fair” in allowing ineligible protestors to participate (violation of the “no good deed goes unpunished” rule), and finally (5) the “218 process” was cumbersome, complex and not easily understood at that time. (In 2008 the State Legislature passed legislation that corrected some of the administrative difficulties in the “218 process”. These became law January 2009.) It is a wonder the “218 process” worked out as well as it did. Hopefully, we have learned from this experience. Fortunately, legal procedures were followed and the actions taken are valid. Unfortunately, the public perception isn’t all we would hope for.

Recommendations

- That the Council require staff to provide monthly briefings, in advertised open session, regarding significant regulatory changes that might affect City business.
- That steps be taken in advance to clean up and “normalize” the various databases that will be used in any future Prop 218 poll processes.
- That the City, in anticipation of Prop 218 processes for the programmed future sewer rate increases, require staff to (a) develop a standard procedure and maintain a set of “eligible objector” data that can be implemented without confusion and delay, (b) develop and prepare to disseminate a clearly-written set of “objector guidelines”, (c) involve interested citizens in the process of developing these Prop 218 implementation tools, and (d) bring the completed “tool set” back to the Council for approval.

City Response: We appreciate your recommendations, but have some disagreement. First, monthly briefings on significant regulatory changes requires someone to determine what is “significant” and then could take a great deal of time at Council meetings discussing these proposed changes. This is an area in which the Council needs to look to the City Manager and City Attorney to keep them informed. Written and/or verbal reports can be made as deemed necessary. The Council Members themselves also have access to regular reports from the League of California Cities on pending legislation.

We agree that a formal “218 procedure” for future rate increases should be developed. We expect Staff to prepare such a procedure, consistent with the revised law and tailored for local use, for our consideration and adoption during 2010.

5. Role of City Staff Members in WWTP-Related Issues

Findings

- Staff procedures within City Hall did not appear adequate to prevent some Prop 218 procedural errors—and a considerable loss of Public confidence—in the conduct of the WWTP bidding, contracting and rate increase approval processes.
- Available written public records and testimony indicate that interdepartmental coordination and interaction did not occur in several decision processes relating to the WWTP Project. This led to incomplete information being provided to the Council and the Public.

City Response: The problems of the “218 process” issues were discussed above. Interdepartmental coordination is a primary responsibility of the City Manager. We believe that issue has now been corrected.

Recommendations

- That the current and future City Managers take steps to implement or improve staff interaction and coordination on projects or matters that naturally involve more than one department.
- That the City Attorney and Finance Director be integrated more fully into projects or matters with legal, regulatory, or fiscal implications.
- That, before Departmental advice and/or recommendations on major projects go forward to the City Council, they be subjected to wider staff review, under the direction of the City Manager.

City Response: We agree. These are the City Manager’s responsibility. As the City Council, we will expect the City Manager to be aware of all City operations, programs and projects, but not micromanage them, and coordinate them across departmental lines.

6. Role of City Managers in WWTP-Related Issues

Findings

- Several City Managers were not sufficiently involved in the WWTP matters to fill the gaps in Council information and Public outreach that resulted from the Public Works Director's natural focus on the Project itself.
- As evidenced by some of the lapses in coordinating staff work relating to the WWTP Project, City Managers need to take a more active role in staff work on major projects than that observed with respect to the WWTP from 2004 to 2007.

City Response: We don't believe this was as bad as your finding implies, but admit coordination and management could have been better, as evidenced by your need to comment on this matter.

Recommendations

- That the City Council require the current and future City Managers to become and remain more active in the affairs of all City Departments.
- That the current and future City Managers:
- Become and remain inquisitive and objectively challenge major recommendations made by Department Heads to the City Council—in short, ask the hard questions in advance of Council meetings,
- Take an active role in reviewing input and commitments provided by Department Heads to agencies outside the City,
- Take an active role in advice provided by staff to the Council, subjecting Department views to “whole Community” scrutiny and interpretation.

City Response: This is the City Manager's responsibility. As noted above, we will expect the City Manager to be aware of all City operations, programs and projects, but not micromanage them, and coordinate them across departmental lines.

7. Role of the City Councils in WWTP-Related Issues

Findings

- Throughout the period covered by this investigation, a series of City Councils was overly dependent on City staff for advice and recommendations—especially with regard to technical matters.

- Compounding that difficulty, it appeared that these Councils, in large part, were not sufficiently demanding of staff on major matters.
- In several instances, incorrect, incomplete or untimely information from staff placed the Councils in a position where they had little choice but to rush to judgment with insufficient information.
- City Councils, as a matter both of right and of good government, can require and demand that City Managers, and the staffs that they supervise, provide Council members with timely, complete, accurate and unbiased information, advice and recommendations.

City Response: City Councils are always somewhat dependent on their staffs, but you are correct that we should demand from our City Manager timely, complete, accurate and unbiased information. Whether that was lacking in the case of the WWTP project is a matter of judgment. Also, one must remember that a lack of questions can mean a complete understanding of the matter, and therefore no need to ask questions. Some Councils may demand more or less than was received.

Recommendations

- That the current and future City Councils require complete staff review—under City Manager direction—of all proposals and recommendations on major projects or matters of significant Community import before they are brought to the Council for consideration or decision.
- That the issue of “lead time” for significant matters be re-examined to ensure that Council members receive Agenda packages containing staff reports and recommendations in time to give them a thorough review prior to their Meetings.
- That staff advice and recommendations be treated with appropriate respect, but skepticism. Several Councils have been ill-served by advice they did not appear to have questioned sufficiently.

City Response: We agree. As noted above we expect and will demand from our City Manager timely, complete, accurate and unbiased information. We also expect the City Manager to review proposals and recommendations that originate with Department Heads, and to include his/her recommendation. We also believe that in the case of some major projects the City Council should, and will, consider hiring a consultant to give a “second opinion” on the recommendations of staff or the primary consultant. This was done in 2004 with the design review of the WWTP feasibility report recommendations.

8. “Conflict-of-Interest” Questions

Findings

- The City had no active, enforced program of staff training and review of COI matters.

- Definition of who was required to disclose outside economic interests, and for what geographic areas, was ill-defined.
- Although FPPC-required CA Form 700's were required for specific City employees, their submission was treated as a pro-forma exercise, and no serious review to identify potential COI trouble spots was undertaken—by either the various Councils or City Managers.
- The Public Works Director's outside real estate development interests were widely known within the City leadership, but were not reported on his CA Form 700's for the years 200-2007.
- Lax attention to the CA For 700 process, coupled with an apparent City leadership and Council view that economic interests outside the City limits created no conflict, allowed the Public Works Director to omit—for more than four years—disclosure of activities and interest in areas affected directly by his responsibilities for water and sewer system management throughout the Urban Services Area
- Given (a) the failure of City leadership to question the Public Works Director's outside real estate development activities—even though they were given an opportunity to do so in 2006, and (b) the ambiguity of the City's old Conflict of Interest Code—makes it difficult for the Grand Jury to find an *actual* conflict of interest on his part. So, what does this mean?
- The appearance of a conflict of interest on the part of the Public Works Director did occur, and was ignored by various City Councils and City Managers.
- To its credit, the City Council finally closed the existing loopholes in the City's COI Code in March 2009, by expanding the geographic scope of economic interest to include the entire County.
- The long-standing, unresolved, COI cloud surrounding the Public Works Director and the WWTP Project contributed to an atmosphere of public distrust that colored the entire WWTP contract acceptance and sewer rate increase processes.

Recommendations

- That the current and future City Councils should be more attentive to public perceptions of existing and potential conflicts of interest, and be willing to air and resolve such questions openly and on the record.
- That the current and future City Councils:
- Monitor implementation of recent amendments to the City's COI Code—to ensure that Council intentions are being carried out,
- Remain alert to potential conflict of interest problems and take timely steps to air and resolve them, set a policy for investigation and response
- Take steps to require serious review of the information provided by staff on their CA Form 700's, in order to detect and resolve potential conflict of interest problems early,
- Require that periodic update training of City staff be designed to stress avoidance of actual or perceived conflict of interest.
- That the current and future City Managers:

- Establish a conflict of interest training program for City staff, including orientation for new employees and periodic refresher or update training for all staff,
- Ensure that the processing of employee CA Form 700's include a City Manager or City Attorney review—to detect and resolve both actual conflict of interest problems and potential “perception problems”.

This investigation has revealed a number of problems in the area of oversight and the adequacy of city processes. In addition, conflict of interest questions warrant referral to the appropriate agency.

City Response: The issue of the Director of Public Works’ alleged conflict of interest is now a moot issue. A complaint was filed with the Fair Political Practices Commission (FPPC File No. 090595) regarding that possible conflict of interest. The FPPC is essentially the final authority on conflicts of interest. Their review and investigation culminated in a finding “...that the complaint and its accompanying documents lacked any evidence to substantiate a conflict of interest violation...” (see attached letter)

However, for the record, the Director of Public Works did discuss his outside activities with the City Manager and then requested a legal opinion from the City Attorney. He was advised that he did not have to disclose the interests that have been questioned. Also, those activities were widely known, even outside the City, and no action was taken.

The City now requires all contract Department Head employees to give a full disclosure of all economic interests anywhere in Del Norte County, not just Crescent City. This disclosure is now included in consultant contracts also.

We will also direct our City Manager to review all CA Form 700's and report any possible conflicts to the City Council. The City Council will review the City Manager's CA Form 700. These are, of course, available to the public upon request.

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