

# **THE CITY OF CALIFORNIA CITY**

## *A Time to Come Together, 2.0*

### **SUMMARY:**

The City of California City (Cal City) has endured much public scrutiny in regard to how it has been managed by various city managers, finance, public works directors and city council members. In fact, a 2018 newspaper article highlighted the acrimony at a farewell ceremony for the out-going mayor and the welcoming of the new mayor and council:

#### *GAVEL DOWN: INCOMING MAYOR AND COUNCIL GET A TASTE OF WHAT AWAITS THEM WITH THE BUDGET:*

*...Last Tuesday night's City council meeting was the last one that [out-going mayor] officially "gaveled in" to start and "gaveled out" to finish as [out-going mayor's] tour of duty as mayor of California City comes to a close. ...one might think that as a matter of appreciation and manners that might have spared [out-going mayor] a raucous next to last council meeting, but then one would be wrong. Of course there was the usual tit-for-tat back-and-forth...squabbles on the dais remain even down to the wire, as was evidenced last Tuesday as a condensed window into city management headaches opened for all to see....Meanwhile, the incoming council members[names omitted]...sat in horror watching what awaits them in a mere two weeks.*

The 2021-2022 Kern County Grand Jury (Grand Jury) has been tasked with investigating a compound complaint (Complaint) from a concerned resident. Indeed, the Complaint details 46 areas of concern which include water rates, water main replacement issues, missing water and sewer funds, accounting irregularities of the Tierra Del Sol Golf Course (TDS) and Proposition 218 (Prop 218) non-compliance. Concerned residents' state City Officials do not respond to the issues they raise.

Preliminary research into the complaint reveals some areas of concern while other areas are readily explained. At the outset, one thing is certain—Cal City needs stability and strong, ethical, dedicated leadership.

### **PURPOSE OF INQUIRY:**

California Penal Code §925(a), authorizes the Grand Jury to investigate complaints as well as the general organization and operations of cities in Kern County. To that end, the Grand Jury investigated this Complaint.

### **METHODOLOGY:**

The Grand Jury conducted interviews with Cal City Officials and concerned citizens. Cal City agendas, minutes and financial statements were studied as well as previously published Grand

Jury reports. Also reviewed was internet information regarding Prop 218 and California Waste and Sewer laws.

## **DISCUSSION OF FACTS:**

### **Proposition 218**

One recurring issue in the Complaint is that Cal City did not comply with Prop 218 when it raised water rates and failed to pay its water bill. In November 1996, California voters passed Prop 218, the “Right to Vote on Taxes Act.” This act protects taxpayers by limiting the methods by which local governments create or increase taxes, fees, and charges without taxpayer consent. Prop 218 requires:

- All local governments to get majority voter approval for new and increased general taxes.
- The use of general taxes requires majority voter approval, to general-purpose governments i.e., cities and counties. School districts are not allowed to levy a general tax.
- Stricter rules on benefit assessments so that, by definition, they must be calculated based on the benefit received by the parcel because of the project financed. Prop 218 created stricter rules for initiating or increasing benefit assessments. Now, an agency must determine the specific benefit the project will have on individual parcels. A general enhancement to property values can no longer serve as the benefit.
- Agencies put all assessments, charges, and usage fees out to a vote prior to creation or increase. In most cases, the vote will require individual notices be mailed to affected property owners followed by a formal protest hearing, which is required to move forward with the charge or increase.
- Restrictions on Use of Fees. Prohibits local governments from imposing fees on property owners for services that are available to the public at large, i.e., garbage collection, sewer service. Fees charged may not exceed the cost of providing the service.
- Government agencies i.e., cities and counties, must pay their fair share of a benefit assessment, if the property receives benefit from the project or service financed. Essentially, cities and counties must pay for their water and sewer.
- Government Agencies give voters the power to repeal. Allow voters the authority to reduce or repeal any existing local tax, assessment, or charge through the initiative process.

According to previous Cal City Officials, as cited in the 2014-2015 Kern County Grand Jury report, CALIFORNIA CITY, *Proposition 218 and Water in the Desert*:

*Finding 2: Water engineering studies calling for a rate increase have been completed. The water customers were notified per Proposition 218 and given proper time to protest. Approximately 20 letters of protest have been received. Several customers from the community protested at the City Council meetings. While there was a limited protest regarding the increased rates, most water customers were silent.*

On April 7, 2022, this Grand Jury attempted to verify Finding 2 and requested documentation from the Cal City Clerk's Office that Prop 218 was complied with. No documentation or evidence of compliance has been produced. Cal City Officials state, to their knowledge as advised by their legal counsel, Prop 218 has been adhered to. As of May 1, 2022, Cal City has not been able to locate rate increase notices sent to residents and there are no City Council meeting minutes that document the protest votes.

The City Council members are not well versed on Prop 218 and is not aware of how it must be adhered to.

Per Prop 218, cities must pay for their water and sewer. Since 2014, Cal City has paid for water and sewer, but there is no documentation that sewer and water were paid prior to that.

The Grand Jury also noted the following:

### **Water Line Replacement**

- A. Cal City has water, lots of it. It sits on a natural aquifer that is estimated to provide water to residents for several generations. The problem is the pipes—steel water lines, installed in the early 1960s, have rusted, are failing and are desperately in need of replacement.
- B. In 2002, a Master Water Plan was adopted by the City Council to replace the water lines and recommended that replacement be phased in over 10 to 15 years. \$20.4 million in water standby fees was secured, half of which was intended for water main replacement. Additionally, the 2004-2006 Measure L parcel tax collected \$1.278 million for water main replacement.
- C. As of April 2022, twenty years later, only 10% of the water lines have been replaced. Cal City Officials recognize that this is largely due to bad or incomplete management and lack of accountability because of constant turnover of city managers, finance directors and public works directors.
- D. Cal City Officials state water line blowouts are another contributing factor for the slow water line replacement process:
  - A blow out is a line hemorrhage that takes approximately five hours to repair.
  - Cal City is averaging three blowouts per week. In one week, they had 10.
  - Public Works has approximately 30 positions, 16 are devoted to water line maintenance and repair, and on call 24/7.
  - The water line blowouts and maintenance issues consume the majority of person-hours, leaving little time for water line replacement.
- E. The Cal City Council is in the process of taking bids from private contractors to complete the water line replacements. This will be a dedicated work team, not employed by the city, whose sole purpose would be to replace the water lines.

## Accounting and Financials

- F. The Complaint also alleges there is inappropriate General Ledger accounting practices, missing and the comingling of funds:
- The 2017-2018 and the 2019-2020 Grand Jury reports on Cal City detailed accounting irregularities.
  - An independent audit of Cal City's finances has not been conducted since 2019.
  - In 2020, the Certified Public Accountant (CPA) firm retained by Cal City to conduct the annual audit, advised that Cal City's books were unauditible. This was due to constant turnover of the City Manager and Finance Director positions. The CPA firm has been working, in the capacity of advisor, to bring the Cal City books up to par. The CPA advisor states Cal City should be auditable by June 1, 2022.
  - In May 2021, Cal City was seized by a ransomware cyber-attack, which lasted seven weeks. Accounting systems were affected, and debits and credits were not properly kept.
  - A letter from a concerned resident to the City Council states there was \$475,000 missing from the Water and Sewer Enterprise Fund for May 2021. However, the CPA contracted advisor states, the money is not missing but appears to be missing due to accounting irregularities. The ransomware attack also complicated the problem.
  - The 2021-2022 budget was not adopted until December 2021; however, the fiscal year began July 1, 2021, and ends June 30, 2022. Cal City Officials state, the budget was late due to changes in city manager and finance director positions and because there was disagreement amongst the individual City Council members on how the monies should be allocated. The difficulties with the unauditible state of Cal City's books were also a factor.
  - As of June 30, 2021, the Fire Department is over budget and supplemented with reserves.
  - As of June 30, 2021, the Airport is over budget and supplemented with reserves.
  - As of June 30, 2021, the Police Department is over budget and supplemented with reserves.
  - As of June 30, 2021, TDS is \$450,000 over budget and has an overall arears of \$2.46 million:
    - TDS is managed by a volunteer who organizes the green fees in an attempt to help salvage TDS.
    - TDS has a clubhouse but no restaurant.
    - The current green fee activity is not enough to support TDS.
- G. The Complaint also expressed concerns about a real estate purchase authorized by the City Council in 2021. On September 3, 2021, in anticipation of expanding the city's

Wastewater Treatment Plant (WWTP) to accommodate the local prison expansion, the City Council voted to purchase 120 acres of land for \$450,000 that had an assessed value of \$116,900. The appraised value, at the time of purchase, is not known. Prison authorities confirmed there are no plans to expand the prison; that in the past two years there have never been plans to expand.

- H. In the past ten years, Cal City has had a high turnover in department heads beginning with the City Manager. On April 28, 2022, the Cal City Fire Chief was the only permanent department head on staff. The City Manager, Finance Director, Public Works Director, and City Attorney were all filled with “interim” personnel.
- I. In the past three years, Cal City has paid approximately \$3 million in wrongful termination settlements and attorney fees.
- J. On May 2, 2022, the City Council swore in a new City Manager.

## **FINDINGS:**

- F1. To describe Cal City’s leadership as being in “crisis mode,” is an understatement. The City of California City’s leadership must be stabilized with qualified department heads for Cal City to survive. The practice of filling leadership positions with interim staff is not sufficient for long-term good governance.
- F2. The new City Manager and the current City Council must bridge the communication divide that exists between them and the concerned residents. Cal City would benefit if all comments, concerns, or complaints were addressed and discussed by the City Council and the City Manager, for fact and truth to prevail over anger and emotion.
- F3. The City Council’s lack of knowledge regarding Proposition 218 must be remediated. It is the City Council’s responsibility to assure that Prop 218 is followed and implemented.
- F4. Cal City’s water line replacement program can only be described as derelict and incompetent. Previous City Officials have continually passed the buck. The “buck” needs to stop somewhere.
- F5. The current City Council and the City Manager believe, the “buck” must stop with them. They are in the process of adopting a good plan that will eventually complete all the water line replacements.
- F6. To describe Cal City’s general ledger and financial position as unauditible is shocking. Cal City must move on from past mismanagement and solve this dilemma.

- F7. The TDS golf course may be an unrealistic dream. However, dreams must be separated from reality. Mired in debt and low green fee revenue, a grass-roots effort from the community may be needed to save it. As it stands, TDS may not be salvageable.
- F8. It appears the land purchase for the WWTP expansion was done on a rumor that local prison expansion was imminent; that the WWTP expansion was necessary to accommodate its growth. In essence, an *if we build it, they will come* reasoning was incorporated into the land purchase.
- F9. The \$3 million in wrongful termination settlements and attorney fees paid by Cal City demonstrates a major shortcoming in Cal City’s hiring and termination policies. Cal City management and the City Council would benefit from basic Human Resource law training.
- F10. The lack of an experienced Human Resources Director has contributed to the large wrongful termination settlements.

**COMMENTS:**

In this report, three previous Grand Jury reports were referenced; a fourth is needed for context and balance. The 2018-2019 Grand Jury report, THE CITY OF CALIFORNIA CITY, “*A Time to Come Together*,” looked into resident complaints of fraud and collusion regarding the Measure “C” parcel tax election. The Grand Jury conducted numerous interviews, researched election law, and traveled to Cal City to observe the ballot counting procedure, and concluded Cal City ran a well-organized, legal, stand-alone election. Resident complaints of fraud and collusion, although well intended, were unfounded.

It must be stressed, communication between concerned residents and City Officials must improve in order to separate fact from anger and emotion. The subtitle for this current report is, “*A Time to Come Together, 2.0*.” The City Manager’s office and the City Council realize the “buck” must stop with them—they must make every effort to respond to each complaint they receive. Equally, the residents of Cal City, especially those who regularly criticize and complain, must agree to thoroughly listen and give the new City Manager and new department heads a chance to rectify the problems Cal City faces.

**RECOMMENDATIONS:**

- R1. The City Council should empower the City Manager to fill all director positions with permanent and qualified individuals by September 30, 2022. (Finding 1)
- R2. Outside of city business meetings, the City Manager and City Council should schedule quarterly open town hall meetings, by September 30, 2022, with concerned residents; the goal being to improve communication and separate fact from emotion and anger. (Finding 2)

- R3. By December 31, 2022, the City Council should complete in-service training on Proposition 218 legislation and review Proposition 13, the original Howard Jarvis Tax Initiative, which led to Prop 218. (Finding 3)
- R4. By June 30, 2023, the City Council should complete the bidding process and hire a private contractor to finish the water line replacements. (Finding 4)
- R5. Under the direction of a qualified Finance Director, the City Council should assure Cal City's General Ledger is organized (per Generally Accepted Accounting Practices), so an independent financial audit can be completed by the end of every fiscal year. (Finding 6)
- R6. By March 1, 2023, the City Council should commission a feasibility study to determine adequate green fees to charge TDS users. The study should also determine if private sponsorships and government/corporate grants are available. (Finding 7)
- R7. By March 2024, if the TDS financial picture is not on an upward trend, Cal City should prepare to lease, sell, or divest itself from the property. (Finding 7)
- R8. By March 2023, the City Council should complete an ethics course in human resource law and training in the California Fair Employment and Housing Act, the Fair Labor Standard Act, and the Americans with Disabilities Act. (Finding 9)
- R9. By December 31, 2022, the City Council should contract with a private agency that specializes in human resource/personnel matters, to advise their human resource employment and termination practices. (Findings 9 and 10)

## NOTES:

- The City of California City should post a copy of this report where it will be available for public review.
- Persons wishing to receive an email notification of newly released reports may sign up at: [www.kerncounty.com/grandjury](http://www.kerncounty.com/grandjury)
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: [www.kerncounty.com/grandjury](http://www.kerncounty.com/grandjury)

**RESPONSES ARE REQUIRED PURSUANT TO CAL. PENAL CODE § 933, SUBD. (C) AND 933.05 WITHIN 90 DAYS TO:**

- **PRESIDING JUDGE**  
**KERN COUNTY SUPERIOR COURT**  
**1415 TRUXTUN AVENUE, SUITE 212**  
**BAKERSFIELD, CA 93301**
- **FOREPERSON**  
**KERN COUNTY GRAND JURY**  
**1415 TRUXTUN AVENUE, SUITE 600**  
**BAKERSFIELD, CA 93301**

Reports issued by the Grand Jury do not identify individuals interviewed. Cal. Penal Code § 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.





## CITY HALL

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BAKERSFIELD, CA 93301

FOREPERSON  
KERN COUNTY GRAND JURY  
1415 TRUXTUN AVENUE, SUITE 600  
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Dear Presiding Judge and Foreperson:

The City of California City was provided with a report in June 2022 outlining concerns regarding City operations. The City has an obligation to reply and offers the following:

At the August 23, 2022, City Council meeting, the City Council considered and approved responses to the report. The responses were developed by former City Manager, Doug Dunford who has since left the City so I am now submitting the responses with updated information that has occurred since August 23, 2022.

**R1.** The City Council should empower the City Manager to fill all director positions with permanent and qualified individuals by September 30, 2022.

**Response:** The City Council has empowered the City Manager to fill the vacancies. However, the City cannot meet the September 30, 2022 deadline due to equal opportunity employment requirements and the recruitment timeline (s). Additionally, due to the employment shortage, the City is experiencing difficulty securing qualified applicants for positions. The City is addressing the concern by recruiting more widely for executive level positions. The City held interviews for Chief of Police on August 29, 2022, and an appointment to that position will be made soon.

**R2.** Outside of business meetings, the City Manager and City Council should schedule quarterly open town hall meetings, by September 30, 2022 with concerned citizens; the goal being to improve communications and separate fact from emotion anger.

**Response:** This is noted and with the election in November 2022, the City Council constituted at that time will set a schedule for Town Hall meetings.

**R3.** By December 31, 2022, the City Council should complete in-service training on Proposition 218 legislation and review Proposition 13, the original Howard Jarvis Tax Initiative, which led to Prop 218. (Finding 3)

**Response:** The City is in the process of scheduling training for the Council Members after the election on November 8, 2022. This will include discussion of Proposition 218, along with, other procedural requirements.

**R4.** By June 30, 2023, the City Council should complete the bidding process and hire a private contractor to finish the water line replacements. (Finding 4)

**Response:** The City is in the process of releasing bids to get a number of water projects moving forward. These bids are being released this month and will continue thereafter as required.

**R5.** Under the direction of a qualified Finance Director, the City Council should assure Cal City's General Ledger is organized (per Generally Accepted Accounting Practices), so an independent financial audit can be completed by the end of every fiscal year. (Finding 6)

**Response:** The City completed their first audit from 2019/2020 at the Council Meeting held August 9, 2022. The next audit 2021/2022 is due in September/October 2022 for presentation to the Council.

**R6.** By March 1, 2023, the City Council should commission a feasibility study to determine adequate green fees to charge TDS users. The study should also determine if private sponsorships and government/corporate grants are available. (Finding 7)

**Response:** The City is engaging a firm to conduct a user Fee Study for the entire City to update the current fees and make sure there is a nexus between what the City is charging and what it actually costs.

**R7.** By March 2024, if the TDS financial picture is not on an upward trend, Cal City should prepare to lease, sell, or divest itself from the property. (Finding 7)

**Response:** Noted. The city will wait until the full financial picture is known before any decisions are made about the future of the golf course.

**R8.** By March 2023, the City Council should complete an ethics course in human resource law and training in the California Fair Employment and Housing Act, the Fair Labor Standard Act, and the Americans with Disabilities Act. (Finding 9)

**Response:** The City will be setting up training for all Council Members after the November 8, 2022 election to make sure everyone is trained at the same time and will be getting the same message on all applicable laws.

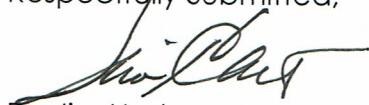


**R9.** By December 31, 2022, the City Council should contract with a private agency that specializes in human resource/personnel matters, to advise their human resource employment and termination practices. (Findings 9 and 10)

**Response:** The City has contracted with Beauchire Consulting to handle all Human Resources issues and currently have attorneys on staff from Buckhalter to handle termination practices.

The City appreciates the opportunity to respond to the findings and is committed to moving the City forward in a positive and professional manner.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Jim Hart", with a long horizontal flourish extending to the right.

Dr. Jim Hart

Interim City Manager