



FILED

JUN 29 2020

Clerk of the Napa Superior Court
By: *A. Bannan*
Deputy

June 24, 2020

The Honorable Mark Boessenecker
Presiding Judge
The Superior Court of the State of California
County of Napa
Criminal Courthouse
1111 Third Street
Napa, CA 94559

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Napa Superior Court
Court Executive Office

Subject: City of Napa Response to the 2019-2020 Napa County Grand Jury Final Report entitled "City of Napa Garbage Rate Hike Raises a Stink: What's Behind the Increases?"

Dear Judge Boessenecker:

The City of Napa has received and carefully reviewed the 2019-2020 Napa County Grand Jury Report entitled "City of Napa Garbage Rate Hike Raises a Stink," dated May 4, 2020 (hereinafter "Grand Jury Report"). Pursuant to California Penal Code Sections 933 and 933.05, this letter documents the City's responses to each finding and recommendation in the Grand Jury Report (hereinafter "City Response"). The City Response was prepared by City staff, including the Utilities Director, and presented to the City Council for their consideration. At the public meeting on June 23, 2020, the City Council approved this City Response, and directed the City Manager to submit it on behalf of the City Council.

Therefore, this City Response represents the required response to the Grand Jury Report from the City Council of the City of Napa, as well as the invited responses from the City staff identified in the Grand Jury Report.

General Responses

For clarity, the Solid Waste and Materials Diversion Enterprise Fund (hereinafter the "Solid Waste Fund") is administered by the Utilities Department, with the Utilities Director as the department head. In the Grand Jury Report, there was some confusion as the Solid Waste Fund was previously administered under the City's Public Works Department before the creation of the Utilities Department beginning July 1, 2018.

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There is one factual error of significance in the Grand Jury Report found on page 11 of the report that the City feels should be corrected for the record. The first sentence under the header of "City of Napa 2019/2022 Garbage Rate Increases" states that "A garbage rate increase of 10 percent above the existing rate went into effect on August 1, 2019 ...", however the adopted rate increase effective August 1, 2019 was 12 percent. By the same token, the final sentence of this paragraph in the Grand Jury Report states that "These annual rate increases amount to a 34 percent rate hike over the course of three and a half years," when the combined rate increase was 36 percent (12 percent for 8/1/2019, 10 percent for 1/1/2020, 8 percent for 1/1/2021 and 6 percent for 1/1/2022) from August 1, 2019 through December 31, 2022.

Grand Jury Report Finding 1 – *The garbage rate increases were timely and justified, given the need to offset a \$3.3 million shortfall in the Utilities Department Solid Waste and Recycling Enterprise Fund.*

City Response – The City of Napa agrees with the finding.

Grand Jury Report Finding 2 – *The 2020 Solid Waste and Recycling expenditure budget pie chart showing expenditures lacked full clarity in outlining the cost of the 2001 Coombsville dump lawsuit liability debt.*

City Response – The City of Napa disagrees with the finding.

The City disagrees that transfers to the City's Risk Fund for the Solid Waste Fund's proportional share of the 2001 Coombsville Dump lawsuit liability debt warranted its own labeling and color-coded "pie-piece" in the Rate Notice pie chart. The Rate Notice pie chart represented \$33,540,100 in projected City FY2019/20 expenditures. The annual cost of this transfer is \$400,000 which is significantly less than the smallest category shown in the pie chart – \$878,000 for Debt Service. The intent of the pie chart was to show categories of expenses to provide a general overview of the Solid Waste Fund.

While not included specifically in the pie chart, the Coombsville Dump liability was noted and described in the June 4, 2019 staff report to the City Council and fully documented in the Rate Study attached to the staff report. The Rate Study was referenced in the Rate Notice and made available online and at Napa City Hall during the 45-day Proposition 218 public review period prior to adoption of rates.

Grand Jury Report Finding 3 – *The 2020 Solid Waste and Recycling budget pie chart showing expenditures lacked clarity in outlining the cost of repairs to city streets caused by the weight of the garbage trucks.*

City Response – The City of Napa agrees with this finding.

The City agrees with the Grand Jury that the \$1,113,600 for mitigation of the impacts of heavy refuse and recycling collection vehicles did warrant its own color "pie piece" in the Rate Notice expenditure pie chart. The expense was shown as part of the \$1,552,000 "Transfers & Contributions" but it was combined with other transfers and contributions from the Solid Waste Fund to the City's General Fund.

Grand Jury Report Finding 4 – *The reduction of sales in recyclable materials to global markets negatively impacted the City of Napa's Solid Waste and Recycling 2020 budget and is contributing to the \$3.3 million budget shortfall.*

City Response – The City of Napa agrees with this finding.

Grand Jury Report Recommendation 1 – *The City of Napa's Utilities Department Director notify all ratepayers through their monthly bill where to locate information explaining how all revenues and expenditures are allocated and spent for the 2020 Solid Waste and Recycling budget. The Jury recommends that this information is to be sent out no later than December 31, 2020 and updated annually.*

City Response – This recommendation has not yet been implemented but will be implemented by December 31, 2020.

The City routinely provides reports to the City Council on the status of the Solid Waste and Recycling budget. The most recent report was presented at a public meeting on March 3, 2020 to identify the revenues and expenditures that occurred from July 1, 2019 to December 31, 2019. The City understands and agrees with the Grand Jury's interest in providing additional details to ratepayers beyond these budget reports to City Council. The Utilities Department's work plan for 2020 includes enhanced outreach to ratepayers to provide education and updates on budgets and projects. By December 31, 2020, information will be provided to ratepayers regarding actual revenues and expenditures in the Solid Waste and Recycling budget for fiscal year 2019-2020 as well as budgeted items for fiscal year 2020-2021. Information will be provided in the monthly bill on where to locate this information.

Grand Jury Report Recommendation 2 – *The City of Napa's Public Works Director continue to explore new sources of revenue for the sales of recyclable materials to both domestic and foreign markets to offset any future Solid Waste and Recycling budget shortfall.*

City Response – This recommendation has been implemented.

As noted previously, the Solid Waste Fund is in the Utilities Department under the direction of the Utilities Director and not the Public Works Director. The Materials Diversion Administrator has primary responsibility for managing the Solid Waste Fund within the Utilities Department. The Materials Diversion Administrator has been working closely with Napa Recycling and Waste Services (NRWS) to explore opportunities for system or program improvements that would help mitigate and/or enhance market values for recyclable materials sold from Napa. In addition to the cardboard screener, second baler, sorting robot and glass cleaner that were approved as part of the 2018 Contract Amendment with NRWS, the City and NRWS have already implemented some key items as described below to protect market value for Napa ratepayers and the Solid Waste Fund.

On October 15, 2019, the City Council adjusted gate fees for the public to cover operational and capital expenses. On April 21, 2020, the City Council approved and established a new gate rate for recyclable material (usually mixed "single-stream" recyclables from other jurisdictions/haulers) as a new revenue source to offset declined market values, higher operating costs and potential market volatility. The combined impact of these additional revenues is projected at approximately \$794,000 for FY2020/21. This revenue will help cover increasing expenses and variable market value for sale of recyclable materials.

NRWS, at their expense, has also installed an "eddy" current to better capture high-value aluminum for the sort line as well as a second "sorting robot" to focus on other marketable materials like PET plastic bottles and milk/juice cartons. These improvements are currently operational and are expected to generate new revenue of \$300,000-\$400,000 annually.

As part of managing the Solid Waste and Recycling budget, the City will continue to seek new sources of revenue and optimize the revenue from recyclable material sales.

The City of Napa thanks the Grand Jury for its service during the 2019-2020 term. The City appreciates the commendation for our efforts to exceed the minimum Proposition 218 guidelines for ratepayer notification. We take our responsibility to provide solid waste and recycling services to Napa customers very seriously, and we strive to do it in a prudent, efficient, and cost-effective manner. If you or the Grand Jury Foreperson have any questions regarding the City's response, please let me know.

Respectfully Submitted,



Steve Potter, City Manager

Cc via email: John K. Morris, Foreperson, 2019-2020 Napa County Grand Jury
Michael Barrett, City Attorney
Phil Brun, Utilities Director
Joy Eldredge, Deputy Utilities Director
Kevin Miller, Materials Diversion Administrator
Jaina French, Community Relations Officer
Chris Shoop, Management Analyst II (Recycling Coordinator)
Greg Kelley, General Manager/Managing Member, NRWS
Mike Murray, Chief Financial Officer, NRWS
Tim Dewey-Mattia, Recycling & Publication Education Manager, NRWS