

# **GUADALUPE ... AGAIN**

## **A Dysfunctional City**

### **SUMMARY**

The Grand Jury revisited the government of the City of Guadalupe in northern Santa Barbara County. The 2002-2003 Grand Jury had considered the operations of the City government and found a "City in Turmoil and Transition." This Grand Jury was concerned about new reports of ineffective construction projects, inefficient governmental operations, and officials who were unable to resolve the issues reported previously. The Grand Jury found that little if anything had changed. The City was mired in political controversy and divided by contentious City Council factions, ineffective administrative leadership, and non-resident officials apparently calling the shots for this small, rural farming town on the verge of momentous expansion.

The Grand Jury investigated the \$171,000 barbeque which was erected in Jack O'Connell Park without required oversight and review by the City Council. The report shows how two City officials assumed power and approved and awarded contracts.

Finally, the Grand Jury considered the coming substantial changes to the City if the DJ Farms and other huge housing projects are approved. The Grand Jury believes that the failure of the City Administration to effectively deal with tasks as common as construction of the barbeque and hiring vital personnel does not bode well for the City's ability to deal with the impact of the development projects.

The Grand Jury recommends extensive changes to the operating procedures of the City.

### **INTRODUCTION**

The City of Guadalupe is a community with a population of approximately 6,500 located in northern Santa Barbara County. The City government has been the subject of negative press reports describing extraordinarily expensive construction work. The Grand Jury received several complaints about Guadalupe related to a barbeque pit constructed in a City park. The Grand Jury interviewed officials of the City and was advised of questionable business, financial and employment practices.

The Grand Jury reviewed the Grand Jury report of 2002-2003 entitled *City of Guadalupe - A City in Turmoil and Transition*. In its report, that Grand Jury raised questions concerning the operations of the City dealing with financial audit procedures, absence of procurement policies, nepotism in the award of contracts, lack of performance of grant programs, lack of agreements between the City and vendors and other City program participants, role of the Mayor and City Council members in

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committing the City to various projects, conflict resolution, ethical conduct training and grant application implementation.

The problems revealed in the 2002-2003 Grand Jury report and the current investigation were compounded by the current negotiations with respect to two huge housing developments, which if successfully completed, would more than double the current population. The Grand Jury is concerned about the ability of the people representing the City to manage these negotiations.

The Grand Jury obtained City records including Council meeting minutes, agendas, City financial documents, contracts, bid list, invoices, and the current 1989 General Plan. The Grand Jury interviewed City officials and Council members, City consultants, and County officials.

### **OBSERVATIONS AND ANALYSIS**

#### **City Staff and Operations**

The City is staffed by various officials, some of whom are non-residents and some of whom are independent contractors. The City Administrator, a CPA, an employee, was the former financial officer of the City. The Planning Director is a resident of Madera, California. The City Engineer, a licensed attorney, is a resident of the City of Fresno, California. The City Attorney is also a resident of the City of Fresno, California. The City Planning Director, City Engineer and City Attorney are independent contractors, not employees and live over 200 miles from the City. The City contends that independent contractors provide the City with a flexible method of dealing with varying workloads that this small City experiences. The Grand Jury was told that when the workload returns to normal, there will be insufficient work for full time staff. The City Engineer received more than \$300,000 during 2004 and earned approximately \$180,000 during the first six months of 2005. The City Attorney was paid approximately \$118,500 for the 2004-2005 fiscal year. Substantial amounts of the fees paid to these professionals are reimbursed to the City by developers.

#### **How the City got Burned on the Barbeque**

In March 2004, the City Council authorized the construction of a barbeque at Jack O'Connell Park. Apparently, an initial grant was applied for to help fund the project. The Grand Jury was advised that there is an additional grant to cover the entire cost of the barbeque pit.

The City Engineer prepared plans and specifications for the construction of a barbeque on an approximately 26-foot x 26-foot concrete slab. The specifications described a substantial structure. The Grand Jury was advised that high-grade construction steel was necessary to ensure that the barbeque pit could survive a possible catastrophic earthquake. The Grand Jury was also advised that the substantial specifications would ensure that any potential tampering with the structure

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by the public would be deterred. The two masonry barbeque pits have grills that can be raised and lowered with cranks. The structure has an electrical outlet and several lights. There is no counter, sink or other work surface. Cold water is provided via PVC pipe and galvanized risers to two hose bibs. Recent photographs from different angles are shown below.



Municipal construction projects are subject to many requirements of State law. Among the requirements is one that if the projected cost exceeds \$5,000, the project must be publicly bid and the bid awarded to the lowest responsible bidder.

The authorization to put a project to public bid requires approval of the City Council. Once bids are obtained, the City Council must approve the successful bid and award the contract. The City Administrator and the City Engineer knew that such approvals were required but did not obtain them from the City Council.

The Grand Jury was advised that the City was told by State officials that the grant money was at risk if the project was not started within a short time. Apparently, without checking or protesting, the City Administrator and the City Engineer took it

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upon themselves to prepare a “Request for Proposals,” obtain a proposal, and award a contract without the knowledge and consent of the City Council.

Only one bidder submitted a proposal, and that bidder was awarded the contract. The entire process took about two weeks.

The Grand Jury was advised that contractors do not want to work with the City because of the “Guadalupe Factor.” Apparently this factor involves the problems associated with political turmoil and management inefficiencies of the City. Financial management problems are causing the City to lose opportunities and to pay more for services. This may have been why there was only one bid submitted.

Construction was undertaken. Apparently no one raised questions about the construction project in Jack O’Connell Park. When it was all done, the City had constructed a common barbeque for more than \$171,000, \$157,305 of which was for labor and materials and \$14,350 was for engineering and design.

The costs of the elements of the barbeque are as follows:

Supervision	\$6,040
Landscaping	9,262
Concrete	10,950
Masonry	11,625
Structural Steel	85,900
Plumbing	800
Electrical	6,511
Profit	<u>26,217</u>
Total	\$157,305

Requests to obtain a breakdown of the separate cost of labor and materials from the contractor were refused.

Due to the failure to secure Council approval, the City Council penalized the City Administrator the sum of \$5,200 and the City Engineer the sum of \$14,350. The City Administrator paid the penalty. The City Engineer charged fees for his work in designing the barbeque. The City Engineer thought that the penalty would be a partial offset to his fees. The City Council required a cash payment to settle the matter.

The Grand Jury was advised that the urgency to commence the project was erroneous. There apparently was no need to rush. The City Administrator and the City Engineer committed the City to pay more than \$171,000 to protect a possible \$50,000 grant.

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As of April 21, 2006, more than two years after the contract was awarded, the City has apparently not taken all of the necessary steps to obtain grant funds from the State. If the City never recovers the grant money, it has paid a dear price indeed. That is how the City of Guadalupe got burned on its barbeque.

### **Out of Balance**

Guadalupe has had an on-going problem with maintaining its financial records in accordance with appropriate accounting standards. In order to address the 2002-2003 Grand Jury report, the City took steps to correct the problems in its management and financial accounts. The City sought assistance in closing its books, reconciling its bank accounts, adopting legal bid practices and training new financial personnel. There are no written reports of this assistance to the City.

The City recruited a new Finance Director. According to the June 2003 City job recruitment notice, the Finance Director reports to the City Administrator, oversees the City's financial management programs, establishes fiscal controls, provides accounting, revenue administration, debt, cash management and purchasing and inventory control services to all departments, oversees accounts payable and receivable, maintains records, and compiles reports to outside agencies. A partial list of the qualifications requested includes five years of increasingly responsible experience in a municipal setting, two years of supervisory experience, a Bachelor's degree in accounting or related field, experience in computerized accounting systems, and extensive work experience in public financial administration. A CPA credential was listed as a plus.

The person who was hired did not satisfy the qualifications for the job. The City hired an applicant with no municipal experience, no experience with computerized accounting systems, and no experience in public financial administration. The applicant was not a CPA. The applicant hired was a recent college graduate with experience only as a teaching assistant and as an administrative assistant without financial responsibilities. The Grand Jury was advised that the applicant did not know how to balance the City's books. The applicant asked for training. The applicant was to work with and receive training from the CPA-credentialed City Administrator who would fill any gaps that arose.

The new Finance Director and the City Administrator did not acclimate to each other. The Grand Jury was advised that the City Administrator did not communicate effectively with the Finance Director.

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The Grand Jury believes that the following problems impede improvement of the City administration:

- City books and bank statements, even when “reconciled” disagreed by over \$100,000 routinely, and there was little concern about balancing month to month, only at year end.
- An unusually high degree of conflict exists among department heads and between City Council and staff.
- Management structure and lines of communication are dysfunctional.
- The construction management process is not controlled and no internal system has been implemented to bring it into compliance with the law.
- Use of independent contractors as department heads adds cost and reduces the ability of the City to recruit competent, resident employees.
- Internal controls are absent, for example, separation of duties, measures to prevent fraud, verifying that people being paid are in fact employees; rejection of block billings.
- Financial management problems are causing the City to lose opportunities and pay more for services.
- Management measures that are both feasible and widely recognized as good practice are available to improve decision-making and performance, but are not used by the City.

The City’s resources, however limited, are no excuse for failing to put adequate financial and procurement systems in place.

### **Who’s in Charge?**

The Grand Jury was confronted with a complicated scenario of contesting political factions among the members of the City Council. Each faction had complaints and criticisms about the other. Each appeared to view the other faction through its own political filter.

It is clear, however, that the majority faction lacks effective control of the agenda for the City. The majority should be able to express its will and objectives to staff. Yet the majority complains that the other faction is using allies within the staff to interfere with the objectives of the majority. Complaints revolve around direct disputes between the members of the Council, involvement with staff and interference with projects of the City. The minority was accused of voting against reimbursement of money due the City for no reason other than to embarrass the majority. Whether this allegation is true is problematic.

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The members of the City Council have lost perspective on the need to serve the public interest. It seems to the Grand Jury that this Council should devote its efforts to improvement of the City with a consistent program focused on progress rather than retaliation. In the real world, for good or ill, the majority should be in charge.

### Coming Change to the City

The City is on the verge of substantial change. The DJ Farms and additional projects, if developed, will add more than 1,400 homes that will almost double the population of the City. These developments have the potential to change the culture of the western frontier city in ways that the current administration cannot contemplate. Not only will the developments change the economic, ethnic and cultural make up of the community, they will change the electoral politics of the City.

Although an official stated that the City is proceeding at a deliberate pace and has retained consultants to advise the Council, it does not appear that the City is capable of dealing with the complex requirements related to growth of the City. Not only must complex environmental evaluations be made, but significant commitments to financial contributions from developers must be obtained. The needs related to schools, water, sewage, roads, infrastructure and other aspects of an evolving City must be accommodated. Based on the information examined by the Grand Jury, the Grand Jury believes that the City presently lacks the advice, counsel and staff necessary to make the transitions. One public official believes that the best thing that could happen to the City would be its return to the unincorporated area of Santa Barbara County.

The City's current General Plan was published in 1989. It is unchanged and out of date. Among other things, the Plan states that the City's water supply is a groundwater basin from which the safe amount of withdrawal is unknown. The Plan predicted a water shortfall at the population it predicted for 2020, which already has been reached. Adequacy of water supply would seem to be essential to decisions relating to the approval of housing developments. Adding further uncertainty to the size of the water supply is the fact that the City is a party to the Santa Maria Water Conservation District litigation involving rights to water.

In the 1989 General Plan, the Local Agency Formation Commission expressed two concerns: 1) premature conversion of agricultural lands, and 2) questionable ability of the local jurisdictions (i.e. Guadalupe) to provide public services in a timely fashion. The City is limited in its expansion to the north and west and has no current plans to expand to the south and east. A public official stated that the update of the General Plan would cost several hundred thousand dollars to complete and the City cannot afford the cost. The Grand Jury believes that the City cannot afford **not** to update the Plan.

## FINDINGS

### **Finding 1**

The City of Guadalupe lacks a proper method to control construction through lawful bidding practices.

### **Finding 2**

The City of Guadalupe's financial administration lacks effective leadership.

### **Finding 3**

Continuing internal control problems cause the City of Guadalupe to pay a premium for services.

### **Finding 4**

The City of Guadalupe paid an unnecessarily high price for the barbeque in Jack O'Connell Park, and has yet to collect the grant funds that were given as justification for rushing the contracting process that helped create the high price.

### **Finding 5**

The City's hiring practices are ineffective at securing staff with adequate expertise.

### **Finding 6**

The City Council comprises members of politically opposing cliques who appear to be unable or unwilling to deal with the business of government in a way that is beneficial to the advancement of the City. The City Council majority appears to have problems implementing its program and does not fully understand the impact of the failures of the staff on the administration of the City.

### **Finding 7**

Although management measures that are both feasible and widely recognized as good practice are available to improve decision-making and performance, they are not used by the City.

### **Finding 8**

Independent contractors instead of employees fill several key department head positions. The advantages of using independent contractors instead of employees have not been demonstrated.

### **Finding 9**

The approval of large housing projects will have a substantial impact on the economic, ethnic, cultural and political makeup of the City and the current City administration does not seem prepared to manage it.

## **RECOMMENDATIONS**

### **Recommendation 1**

The City of Guadalupe should implement procedures to ensure that contracts are awarded on a competitive basis and to ensure compliance with other requirements of State law relating to public contracting.

### **Recommendation 2**

The City should implement procedures to ensure that its financial records are complete, accurate and up-to-date and that the finance department has appropriate leadership.

### **Recommendation 3**

The City should use employees rather than independent contractors to head the departments of government.

### **Recommendation 4**

The City should develop and follow written policies on expenditure processing, Council action, grant management, employment practices and probation period management.

### **Recommendation 5**

The City Council should set forth clearly and concisely the requirements for consent and approval of any action taken by the City administration and impose appropriate sanctions for violation.

### **Recommendation 6**

The City should retain assistance of appropriate professional advisers to ensure that the annexation of land and approval of housing developments are carried out with an understanding of the future impacts on the City.

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### REQUEST FOR RESPONSE

In accordance with Section 933(c) of the California Penal Code, each agency and government body affected by or named in this report is requested to respond in writing to the findings and recommendations in a timely manner. The following are the affected agencies for this report, with the mandated response period for each:

#### **City of Guadalupe – 90 days**

Findings	1, 2, 3, 4, 5, 6, 7, 8, 9
Recommendations	1, 2, 3, 4, 5, 6