



**County of Sutter**  
*Office of the County Administrator*

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**ENDORSED FILED**

AUG 25 2016

August 5, 2016

**RECEIVED**

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SUTTER  
CLERK OF THE COURT  
By JACKIE LABWELL Deputy

Honorable Brian R. Aronson  
Presiding Judge  
Sutter County Superior Court  
1175 Civic Center Blvd.  
Yuba City, CA 95993

AUG 05 2016

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SUTTER  
TRAFFIC DIVISION

Re: Invited Response to the 2015-16 Grand Jury Final Report  
"A Need for Greater Public Transparency: COIN" Report

Dear Judge Aronson:

The Sutter County Grand Jury has invited the County Administrative Officer to respond to its Report entitled "A Need for Greater Public Transparency: COIN." The Sutter County Board of Supervisors will, as required by law, respond to the Report's findings and recommendations. My comments, which are not mandated by law, will focus on two issues. First, I am concerned that the Grand Jury, in its advocacy of a COIN (Civic Awareness in Negotiations) Ordinance, has misinformed the public about actions the County has and has not taken. Second, I will comment on the manner in which the Report was conducted, and suggest how it could perhaps have been improved.

1. On page 2 of its Report, the Grand Jury cites two examples of "... the County's adoption of contracts that imposed a significant financial obligation on the part of its citizens with a minimum of public review." The first example is the Board of Supervisors approval in 2004 of an enhanced retirement package for County employees. The second is the Board's approval of a contract in 2014 with Chevron Energy Solutions. In the following, I will focus on the second example.<sup>1</sup>

According to the Grand Jury:

"On February 25, 2014, a \$10,500,000 agreement with Chevron Energy Solutions was approved by the BOS. The purpose of the agreement was to build a series of solar arrays, upgrade HVAC systems, and provide other energy saving improvements which were designed to reduce the County's energy costs. The system was designed and rushed through for approval without an independent financial analysis and with only minimal public input. **The BOS even denied the request by the Sutter County Auditor-Controller to delay the vote until further study on the financial impact of the project could be studied.**" (Emphasis added by the Grand Jury.)<sup>2</sup>

<sup>1</sup> The 2004 pension issue was the subject of a separate report prepared by the Grand Jury. The Board of Supervisors will respond to that report's findings and recommendations, and I will comment upon it in a separate letter.

<sup>2</sup> The Auditor-Controller at the time this issue was considered by the Board of Supervisors was Robert E. Stark. He has subsequently retired and been succeeded in office by Nathan Black.

The Chevron project first appeared on the agenda for a Board of Supervisors' meeting on July 23, 2013. At that time a presentation was made by a County staff member and a representative of Chevron Energy Solutions. As is the normal practice, the agenda for this meeting, and a written staff report on this item, had been made available to the public five days earlier. The Board of Supervisors approved an agreement with Chevron Energy Solutions to develop a project plan for the County's consideration.

The Chevron Project next appeared on the Board of Supervisors December 10, 2013 agenda, approximately five and one-half months later. At this time, the Board was asked to set a public Board Study Session on the Chevron Project for January 7, 2014 and a Public Hearing on the proposed project for January 14, 2014. On the agenda for the January 7, 2014 Board of Supervisors meeting, an agenda item prepared by the County Administrative Office asked the Board of Supervisors to reschedule the Study Session for February 11, 2014 and the Public Hearing to February 25, 2014. The Board approved this rescheduling.

On January 23, 2014, the Board of Supervisors Public Works/Support Services Committee, which was composed of Supervisors Larry Munger and James Gallagher, met and discussed a report entitled "Adoption of Findings and Recommendations regarding Energy Savings and Generation Project prepared by Chevron Energy Solutions, adoption of a Contract with Chevron Energy Solutions, and approval of related Financing Agreement." Public notice of the committee meeting was given pursuant to the State's Open Meeting Law (i.e. the Brown Act).

The Board of Supervisors public Study Session was held as scheduled on February 7, 2014. At that time, a Chevron Energy Solutions staff member gave a detailed description of the proposed project and the Assistant County Administrator discussed the County's plan to pay for the project. A written report was provided to the Board of Supervisors and was available to the public.

On February 25, 2014 the Board of Supervisors conducted a Public Hearing on the project. A lengthy written report on the project set forth, among other things, the financial plan for the project and included all the requisite agreements and contracts. After the conclusion of the hearing, the project was approved by the Board.

In my mind, a project which appeared on the Board of Supervisors' publicly-noticed meetings five times over a seven-month period, was discussed during a publicly-noticed Board Committee meeting, was the subject of a public Board Study Session and, two weeks later, a publicly-noticed Board Public Hearing was not, as the Grand Jury asserts, "rushed through for approval."

As noted above, the Grand Jury also faults the Board of Supervisors for purportedly denying a request by the Sutter County Auditor-Controller to delay voting on the project until further study could be done on its financial impact. The facts do not support this assertion. The Board of Supervisors **never** denied such a request. In fact, we can find no evidence that the Auditor-Controller submitted the request in question. Further, it should be emphasized that, as a separate elected official, the Auditor-Controller could have prepared a report without the consent of the Board of Supervisors any time he chose to do so.

Frankly, I think the Grand Jury, however unintentionally, has greatly misrepresented the actions taken by the County Board of Supervisors on the Chevron project, and, in this case, poorly served the public.

2. In preparing its report, the Grand Jury indicates it interviewed three parties: the Sutter County Auditor-Controller, the Sutter County County Counsel, and the Sutter County Taxpayer's Association. While no one would object to these parties being interviewed, it should be noted that none of them are involved in actual public employee collective bargaining. Consequently, the Grand Jury may have received something of a limited perspective on this issue. I think the Grand Jury's Report would have been improved had they interviewed people (city or county administrators, human resources specialists, union members and representatives, etc.) who have direct experience in such negotiations. While they might have reached the same conclusions, the Grand Jury would at least have been exposed to perhaps different perspectives on the issue. When grand juries don't seek different viewpoints, they may create an impression that they were more interested in justifying a certain conclusion than conducting an objective study.

I am available to discuss my comments with anyone, including current or former grand jurors, who would like to do so.

Respectfully Submitted,



Curtis R. Coad  
Interim County Administrative Officer

Cc: Sutter County Board of Supervisors  
2015-16 Grand Jury Foreperson  
2016-17 Grand Jury Foreperson  
Sutter County Auditor-Controller

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