

BUTTE COUNTY GRAND JURY REPORT BIGGS CITY GOVERNMENT

SUMMARY

The 2007-2008 Butte County Grand Jury received complaints from concerned citizens of the City of Biggs regarding the activities of the current Biggs City Council. The complaints focused on the votes cast by the Vice-Mayor on actions taken at City Council meetings that appeared to these citizens to affect a business owned by the Vice-Mayor.

Accordingly, the Grand Jury conducted a thorough investigation that involved interviews with the authors of correspondence to the Grand Jury, current and past City elected officials, hourly and salaried employees of Biggs, and a review of the Biggs' City Council minutes in the form of both hardcopy and audio tapes. At the conclusion of this review, the Grand Jury determined that the Vice-Mayor had participated in Council deliberations and voted on a General Plan Update. This point is expanded in the DISCUSSION section of this report.

Additionally, the Grand Jury found that the Biggs City Council has experienced a lengthy vacancy and is urging the Mayor and current City Council to quickly fill that vacancy as soon as possible.

BACKGROUND

The City of Biggs has a downtown which contains deteriorated buildings reflecting a weak local economy. The Mayor agrees that the City has been having budget problems, the current sales tax revenue is about \$2,300 annually, and the City is in need of new tax revenue. Page 1-2 of the current City of Biggs General Plan states "retail stores in Biggs have experienced significant decreases in business and leaving vacant store fronts in the previously busy commercial area." The City has been exploring a General Plan Update and/or General Plan Amendment as a means of revitalizing the economy of the City. Correspondence received by the Grand Jury asked the Grand Jury to investigate actions of the City Council that give the appearance of a conflict of interest for the Vice-Mayor who owns a downtown Biggs restaurant and who has voted on general plan actions affecting future land use within and adjacent to the city.

APPROACH

The Butte County Grand Jury's investigation included:

- A review of all letters written to the Grand Jury regarding Biggs' current City Council, and interviewing the authors
- Interviewing as many past and current City elected officials as possible including the current Mayor and Vice Mayor
- Interviewing current City employees
- Reviewing applicable documents and City Council minutes

DISCUSSION

The primary issue presented to the Grand Jury is a discussion of alternative proposals affecting the City's General Plan. One proposal was to *amend* the City's General Plan as it relates to the development and commercializing of approximately twenty acres at the intersection of "B" street near Highway 99, which is far from downtown (Attachment A). The alternative was a General Plan *Update* which is an all-encompassing approach which addresses environmental and land-use issues, infrastructure needs, the sphere of influence, and other long-term growth issues. The *Amendment* to the General Plan, as it is understood by the Grand Jury, would result in a possible tax revenue infusion for Biggs more rapidly than the alternative plan before the City Council which was the General Plan *Update*.

On 19 June, 2006, the City Council of Biggs considered how to move forward with its General Plan. The City Council, including the Vice-Mayor, voted for the *Update* indicated as 'Plan B' in the Minutes of the City of Biggs' regular Council meeting of 19 June, 2006, page 13 (Attachment B). The practical effect of this vote to support an overall General Plan Update rather than moving forward with a General Plan Amendment was to delay commercial development in the vicinity of "B" street near highway 99 and possibly defer tax revenue.

Testimony obtained by the Grand Jury from Biggs citizens expressed concerns that the Vice-Mayor's reason for opposing the commercial development of "B" street and Highway 99 was that such development might negatively affect the Vice-Mayor's restaurant business which is located in the downtown area. However, when the Grand Jury interviewed the Vice-Mayor on 9 April, 2008, his only stated reason for opposing commercial development of "B" street and highway 99 was that he "did not like strip-malls".

In the course of investigating the activities of the Biggs City Council, the Grand Jury learned that the City Council has been operating with one Council vacancy since July of

2007, which leaves an even number of four members. When questioned about this, the Mayor replied to the Grand Jury that he could not find a “qualified” candidate. The Grand Jury has learned that there are at least three former Council members currently living in Biggs. Upon interviewing three of the former Council members, the Grand Jury learned that the former Council members are at odds with the political agenda of the current Mayor and Vice-Mayor.

FINDINGS

F1 The current Mayor and City Council have taken actions that have been perceived by many Biggs Citizens as contrary to the best interests of the City of Biggs.

F2 The Biggs City Council currently has a total of four members out of the authorized five members, due to a vacancy which occurred on July 7th of 2007. The Grand Jury finds the lack of action to fill the vacancy disturbing.

F3 Serious concerns regarding trust of the City Council decision-making process, transparency of government, and insufficient consideration of the public good in City Council decisions exist among many Biggs citizens.

RECOMMENDATIONS

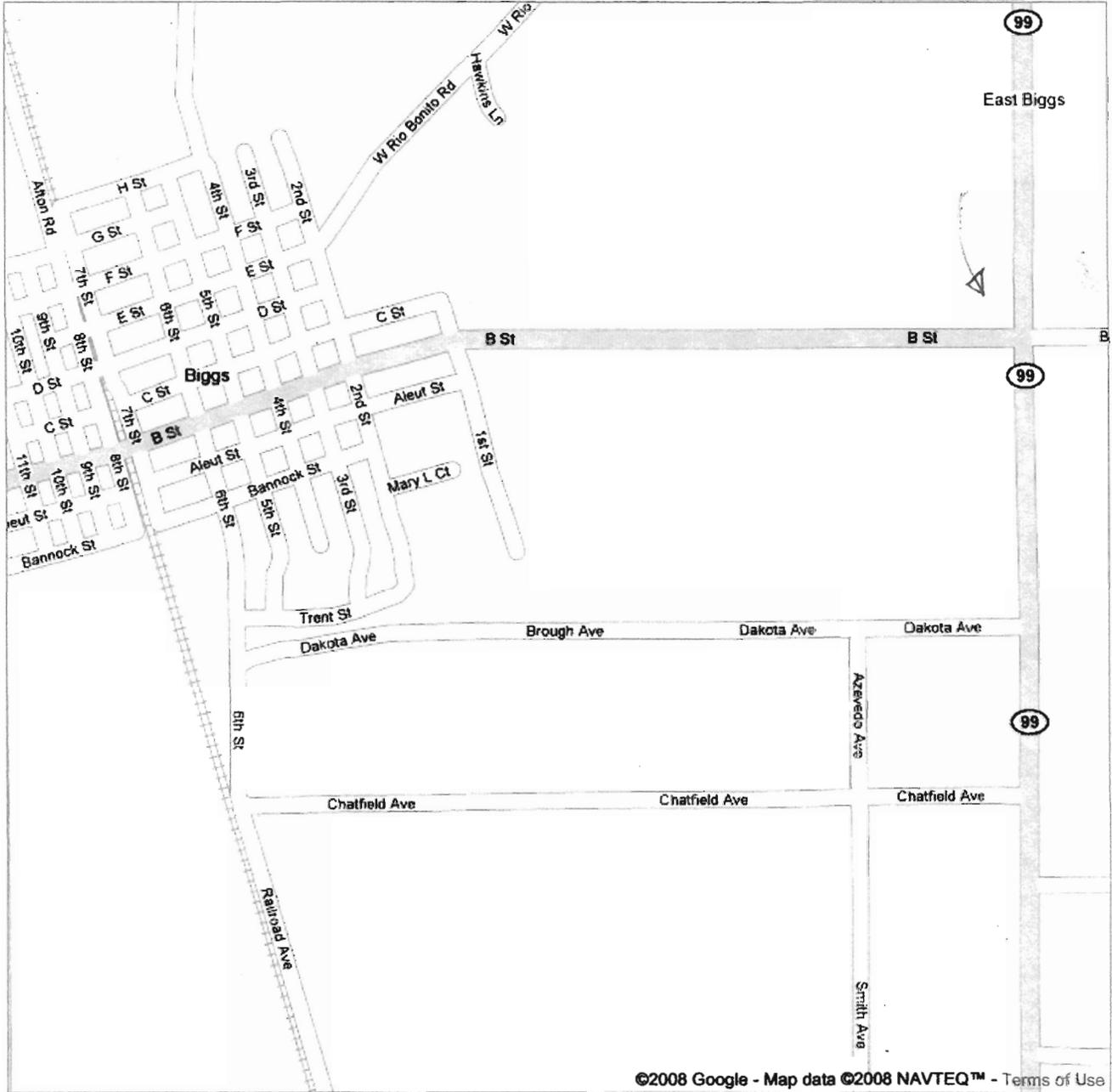
R1 City Council members who vote on issues which might create a strong public concern that a conflict of interest exists, should consider recusing from that vote in order to maintain public confidence and trust in the City Council.

R2 The City Council should act immediately to find a qualified individual to serve in the City Council position that has been vacant since July of 2007

RESPONSE REQUIRED

Biggs City Council

BIGGS REPORT – ATTACHMENT A



for the second presentation to get your input on what you would like us to take to them. We are asking for your input tonight.

Busch-I want to go back to the agenda. We were told two months ago that we couldn't get on this months LAFCO thing because LAFCO demanded a 30 day notice before any item was agendized. I have a letter at my house directed to me from LAFCO that says please; present this to me by June 25th so that it can be agendized for the July meeting. What happened there? So with me that is enough questions. I have heard a couple of comments going on here, I want to hear those too and then we are going to. . . .

BIGGS

Frith-Have we got confirmation that we are in fact on the agenda for July? Because it's not on their website yet.

REPPORT

Friend-I spoke with the X O Thursday afternoon and he said as long as I get him a report tomorrow by noon. I asked him to postpone anything that I was to submit to him until after this meeting so I knew what it was I was submitting. He said as long as he got something tomorrow by noon it will be on there. I can only take his words for it. It's not my agenda.

ATTACHMENT

B

Busch- I think it is time to call for a vote here. I think we have got two choices. There has been a third one presented to us. I don't know if that should be considered, it wasn't on the agenda. If someone will help me stumble through the motion I will make the motion. I'll make the motion that we accept Plan B because I truly feel that it is what the community expects. I also vote that we accept Plan B because our planning commission voted 5-0 in favor of Plan B. So with that said, I make the motion that we accept Plan B and we present it to LAFCO with the most haste and take whatever LAFCO can say with us at that point in time. Is there a second?

Frith-I'd second that.

Busch-All in favor. Better call the roll.

David-Nay

Thebach-Aye

Busch-Aye

Frith-Aye

Waters-Nay

Motion/Second that the council accept Plan B and present it to LAFCO because it is what the community expects, and because the Planning Commission voted 5-0 in favor of plan B. (Busch/Frith, M/C, Noes, David/Waters)

Council recessed the meeting at 10:35 and resumed the meeting at 10:43.

It was mutually decided that Mayor Busch, Vice Mayor Frith and Councilor Waters, City Administrator Cagle and City Planner Scott Friend would work on the upcoming presentation to LAFCO.

B. Engineer:

1. City Engineer Dave Swartz wanted to go on record as saying he did not have a preference as to what they do and that it was land use and he didn't care. He didn't appreciate earlier comments made from members of the audience.

City Engineer Swartz requested council allow him to award a bid for the USDA Water Meter Purchase Project and proceed with the meter purchase as necessary.