



City of lone
1 E. Main Street
P.O. Box 398
lone, CA 95640

September 5th, 2023

Via Mail and email

Honorable Judge J.S. Hermanson
Amador County Superior Court, Presiding Judge
500 Argonaut Lane, Jackson, CA 95642

Re: City of lone Response-Grand Jury Report 2023

Dear Judge Hermanson,

Please find enclosed the response to the 2022-2023 Grand Jury Report, from the City of lone (the "City"). The lone City Council (the "Council") appreciates the Amador County Grand Jurys' ("ACGJ") time and welcomes the opportunity to answer further questions you or the ACGJ may have with regard to our response.

Background:

The propane tank was removed in April of 2023, as noted by the Grand Jury, prior to the release of their report. The City of lone will also adopt the latest California Fire Code and update it's municipal code to ban propane tanks of a certain size and use to avoid further confusion over this issue.

In 2020, our county experienced the worst pandemic in 100+ years. COVID-19. The State of California shut down businesses, implemented curfews, and banned public gatherings and meetings. City hall doors were locked and staff were quarantined for weeks at a time recovering from COVID. Evalynn Bishop Hall was and still remains, the City's Emergency Shelter. To assist governing bodies in dealing with the dire effects of the pandemic, the US Treasury Department approved the distribution of funds through the CARES ACT, with the requirement these funds were to be utilized per Amador County by December 18, 2020; and December 31st, respectively according to the federal guidelines. In addition, products, goods, and services normally readily available, now were backlogged for up to a year or more. These are the circumstances the City found itself in while planning to install an emergency backup generator at its Emergency Shelter, Evalynn Bishop Hall.

The Council was never informed of the fuel source until AFTER the generator was installed. The only action taken by the Council was the execution of the reimbursement resolution to coincide with the CARES ACT funding deadlines. The City had sixty (60) days from permit pull to completion of the project to avoid missing the deadline while relying on outside resources to assist, namely PG&E. Even under normal circumstances, a 60-day deadline with PG&E is optimistic at best, and close to impossible during the COVID

years. As a point of reference, five months (150+ days) have passed and PG&E still has not connected the natural gas line to the propane tank. Without the propane tank as a fuel source and the CARES ACT

funding, the taxpayers of Lone would have been responsible for the cost of installation (\$100,000). The CARES ACT funds were designed to help the people during a time of great need, and the City's intent was to do just that, in the best interest of our community.

This matter was forwarded to the Amador County Grand Jury ("ACGJ") for investigation, at the insistence of a council member, who took the position that "Propane tanks are illegal in Lone," and "Propane tanks are not allowed in Lone." The ACGJ made no mention of the fact six propane tanks already existed within the city limits and provided no documentation in their report as to when, if ever, propane tanks were banned, or the existing tanks were allowed under a grandfather clause. The documentation the ACGJ provided in its findings as evidence was incomplete and addressed the prohibition of 'Flammable and Combustible Liquids – Chapter 57 of California Fire Code, 2019,' while they should have been looking at 'Chapter 61 – Liquefied Petroleum Gases, 2016.' To date, the City has not adopted the 2019 Fire Codes which the ACGJ used as the basis of their report. All of what is mentioned here can be verified in the documents provided by the ACGJ.

What's troubling is just a few months after the tank was installed, a public bathroom was constructed directly across from several residences without a building permit or notice to residents. Despite numerous complaints and public outcry, the ACGJ chose to pursue an investigation against the City, on a project done to benefit the citizens of Lone and one the City could easily remedy within the confines of the city administration. Our community is facing a huge hardship with the loss of our schools on a ballot measure the county voted against, yet the school board moves forward with a project that will affect thousands of families and have a significant impact on a city that is expanding rapidly. How is this possible, that a propane tank fuel source is of greater importance and carries more gravity than our schools?

The ACGJ report contains multiple errors, use of non-applicable code sections, and speculation while omitting relevant documents. If the City is being admonished for not following Ordinance 489 then the ordinance should be included as a point of reference, as well as the applicable 2016 California Fire Code, Chapter 61, not the 2019 California Fire Code Chapter 57.

The ACGJ's main finding is the claim the City banned propane tanks in 2017 under resolution 489 and subsequently installed a propane tank in 2020. ACGJ's claim was, "Therefore, the tank was installed illegally." Yet, provides no evidence of a ban.

City Ordinance #489 does not ban LPG or Propane tanks. There is no mention of banning anything. It references Chapter 57 – Flammable Liquids in as much as identifying “where above-ground tanks are

prohibited” The fire code even goes on to specify how far apart LP Gas tanks should be from these Class 1 and 2 liquid tanks further establishing that LPG/Propane tanks are not the ones referred to in the ordinance. **(5704.2.9.6.3 Separation between adjacent tanks containing flammable or combustible liquids and LP-Gas).**

From the National Fire Protection Agency’s website:

What is the NFPA classification of LPG?

Storage of LP-Gas is covered in NFPA 58, Liquefied Petroleum Gas Code, while storage of flammable liquids is covered in NFPA 30, Flammable and Combustible Liquids Code. What is important is that propane is not a flammable liquid. It is a flammable, liquefied gas.

All Ordinance 489 did was adopt the 2016 California Fire Code and make minor naming changes from “jurisdiction” to “city”. There is no city staff report, First or Second reading of an ordinance, public hearing, public notice, or minutes showing it was ever intended for Ordinance 489 to ban propane tanks. If propane tanks were banned, then it would have been brought to the attention of staff and council by way of the Interim City Manager or lone Fire Chief. At that time the city could have stopped the project or given itself a temporary permit (to meet the CARES ACT deadline) or a permanent variance to the code. As said above, the City would have easily resolved this matter. Allowing the ACGJ to investigate matters of a far more serious nature, e.g., the relocation of our schools or unpermitted structures.

Findings

F1: *The propane tank at Howard Park was installed in December of 2020, despite lone City Ordinance 489 prohibiting its installation.*

Response: Disagree.

Ordinance 489 does not ban propane tanks. Ordinance 489 simply adopted the 2016 California Fire Code and updated language that previously existed in the 2010 California Fire Code.

F2: *A permit to install the propane tank was issued without all departmental approvals.*

Response: Partially Disagree.

All departmental approvals were given as can be seen in the correspondence between department heads, however not all approvals were signed on the Departmental Routing Sheet. The city will ensure that all paperwork is in order and signed going forward. In February 2023, the City of Lone Finance Committee conducted an internal audit on a portion of the City's Purchasing & Bidding Policy, after which direction was given to staff to increase training and provide checks & balances to ensure policy is followed. The City has purchased new software that will allow staff to track all projects and maintain compliance.

***F3:** Written policies and procedures for overseeing this public works project were not followed, which resulted in lack of adherence to state, county, and city regulations.*

Response: Disagree.

The state and county allow propane tanks and the city has frequently allowed the installation of propane tanks in the past. (As stated above) In February 2023, the City of Lone Finance Committee conducted an internal audit on a portion of the City's Purchasing & Bidding Policy, after which direction was given to staff to increase training and provide checks & balances to ensure policy is followed. The City has purchased new software that will allow staff to track all projects to maintain compliance.

***F4:** Turnover of the City Manager position in 2020 contributed to policies and procedures not being followed, which contributed to the propane tank installation in violation of the City Ordinance. Continued City Manager turnover resulted in further delays in correcting the violation.*

Response. Disagree.

There was only ONE city manager during the permit application, the tank Installation, and when the objection was made (Nov 30, 2020 – Feb 4th, 2021). During the entire course of the project, the City could have remedied the objection if it had been brought to the attention of the council by the city manager or Fire Chief. However, as previously mentioned, any delay to the project could have resulted in a forfeiture of the \$100,000 CARES ACT funding. We believe those involved were moving forward with no ill intent, as propane tanks were not banned. These findings appear to be pure conjecture and without merit.

***F5:** The generator can be retrofitted from propane to liquid natural gas.*

Response: Agree.

The city is currently working on the retrofit.

***F6:** A secure pipeline can be trenched and connected from to the generator from the existing liquid natural gas line.*

Response: Agree.

The city is currently working on securing the pipeline.

F7: *The propane tank was removed on April 18, 2023, more than two years after it was installed (December 2020) and over two years after the City Council acknowledged there was an issue (February 2021)*

Response: Disagree.

The tank was removed on April 18, 2023. The council never acknowledged there was an issue at the February 2021 meeting. The council was told there “*may be issues*” and the tank had been placed “*in the middle of cow chip bingo*” which later turned out to be false. As previously mentioned, there was confusion and claims about the tank, but the council was never presented with any documents that backed up these statements.

F8: *There was inconsistent follow-up from city staff when citizens raised concerns.*

Response: Disagree.

According to the official minutes provided by the Grand Jury for the February 2021 meeting, there were no citizen concerns during the discussion of the tank at the council meeting. The only comments were from a councilperson as noted in the above responses. What citizens said or did not say outside of an official meeting is unknown and no correspondence with staff was included in the Grand Jury list of documents.

Recommendations:

R1: *The Grand Jury recommends the City follow policies and procedures to ensure public works projects comply with state, county and local laws.*

Response: Agree.

As stated, the City has taken action to ensure compliance.

R2: *The Grand Jury recommends that any adopted policy and procedure contain a mechanism to bring the new City Manager up to date and inform him or her about all ongoing city projects.*

Response: Agree.

As stated, the City has taken action to ensure all staff are aware of all city projects.

R3: *The Grand Jury recommends the City establish a system to confirm that projects are completed as intended and that they conform to City, County and State laws and regulations.*

Response: Agree.

As stated, the City has taken action to ensure compliance.

R4: *The Grand Jury recommends the city connect the generator to the existing natural gas line.*

Response: Agree.

This is already being done but it has been over 5 months and PG&E has not yet made the connection. This delay should serve as a reminder that the City relies on contractors/vendors and has no control over third-party scheduling and support the city opting for the propane tank during the CARES timelines.

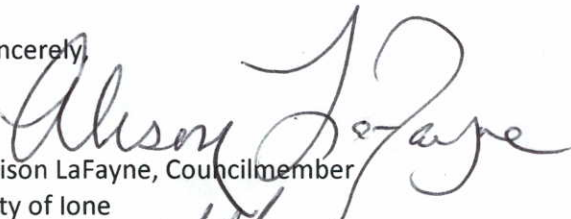
R5: *The Grand Jury recommends the City establish procedures to ensure that staff prioritizes and responds to reasonable citizen complaints in a timely manner, including those complaints voiced at council meetings.*

Response: Agree.

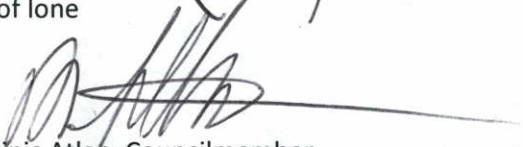
This is an existing city policy in place and will be followed by staff.

In closing, while we appreciate the time the ACGJ spent, had the initial complaint been weighed against other matters, the City believes staff and Council would have been able to reach an appropriate resolution on its own accord without involving the ACGJ and a subsequent investigation.

Sincerely,



Alison LaFayne, Councilmember
City of Lone



Dominic Atlah, Councilmember
City of Lone