

## **Grassroots austerity: municipal bankruptcy from below in Vallejo, California**

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## **Abstract**

Austerity appears to be a globally coordinated restructuring process, where international and national governments cooperate to stymie economic crisis and socialize the costs of systemic economic failure. However, austerity is also shaped from the bottom-up. This paper examines the 2008 bankruptcy of Vallejo, California. This city of under 120,000 people became the first municipal bankruptcy in the Great Recession period. We explore how it became the first to fail. In doing so, we outline the finances of a city whose entrepreneurial activities continued to flounder, making it a good candidate for austerity reforms. However, we also find the city home to a political movement long predicting a municipal default. When economic crisis hit, this movement pushed for the city to make an unprecedented test of Chapter 9 bankruptcy law. Vallejo's bankruptcy, and the related changes to Chapter 9 law, are therefore interpreted as events that were generated by systemic conditions but ultimately precipitated by decisions taken at the municipal level. We therefore call for austerity to be understood as both a top-down and bottom-up process of state restructuring.

**Key words: austerity, grassroots, bankruptcy, crisis, urban**

# **Grassroots austerity: bankruptcy from below in Vallejo, California**

## **Introduction**

On May 23<sup>rd</sup> 2008, the City of Vallejo in California became the first municipality to file for Chapter 9 bankruptcy since the onset of the financial crisis. The filing attracted national press attention with many speculating on whether this small town situated on the north of the San Francisco Bay (Map 1) represented the first domino to fall in a fiscally over-stretched urban system (Vick, 2008). If Vallejo's bankruptcy was indicative of the fact that municipal finances were suffering structural problems that could no longer be kicked down the road, then the implications might be immense given the extent of local service responsibilities (Glaeser and Ponzetto, 2013). Vallejo's bankruptcy therefore represents a formative event in the emergence of "austerity urbanism" (Peck, 2012).

Current scholarship on austerity suggests that cities are becoming the lynchpin through which national fiscal crises are being distributed and/or displaced (Glaeser and Ponzetto, 2013; Peck, 2014). As nation states have become responsible for macro-economic stabilization, they have almost universally acted to socialize the costs of crisis (Peck, 2014). This regressive socialization is often undertaken in collaboration with well-funded conservative interest groups eager to promote small-state public policies (ibid.). Whilst this top-down reform is pivotal within emergent regulatory regimes, this paper argues that austerity is also emerging from the bottom-up. Using the example of Vallejo's 2008 bankruptcy, the paper demonstrates how austerity

strategies are also being generated through grassroots political struggles that have nationwide implications.

Following a literature review and a primer on municipal default, three aspects of Vallejo's bankruptcy are discussed to illustrate the process of bottom-up austerity. The first section assesses dominant explanations of Vallejo's bankruptcy as rooted in unsustainable labor contracts and poor governance practices. We find that Vallejo's governance and financial practices mirror those of other entrepreneurial cities (Harvey, 1989). However, Vallejo's entrepreneurialism is marked by speculative investments that performed poorly and caused the City to consistently draw on the soon-to-be-bankrupt General Fund. The second section outlines the City Council's longstanding concern with Vallejo's structural financial problems and related preoccupation with bankruptcy. Finally, the paper turns to the contestation in Federal Bankruptcy Court over bankruptcy eligibility. The discussion here focuses on how a restrictive reading of bankruptcy law granted Vallejo the ability to restructure debts without majority creditor consent. The paper concludes by considering the significance of grassroots politics in explaining the wider geographies of austerity.

## **Map 1**

### **Austerity Urbanism and Grassroots Politics**

Austerity designates a "condition of enforced or extreme economy" that demands a minimum level of government capacity, control, and involvement in the private market (Peck, 2012, page

626). It refers to imposed reductions in wages, prices, and public spending that are assumed to restrict capital liquidity. Advocates believe that cuts to government budgets and deficits are necessary to restore market confidence and competitiveness (Blyth, 2013). The resurgence of austerity has been aggressively pushed since the financial crisis, particularly in North America and the European Union (Peck, 2014). However, austerity is neither new (Clark, 2000), nor has it manifest uniformly across different cities, regions and states (Kitson et al., 2011; Donald et al., 2014).

Recent research has framed “austerity urbanism” as a crisis of American federalism (Peck, 2014). Fiscal federalism refers to the “vertical structure of the public sector. It explores, both in normative and positive terms, the roles of the different levels of government and the ways in which they relate to one another through such instruments as intergovernmental grants” (Oates, 1999, page 1120). Some have asserted that the origins of contemporary urban distress are rooted in the neoliberal devolution of responsibilities from the state onto municipal governments (Peck, 2014). This now decades-long process of restructuring has been entrenched in the changing geographies of industrial development and conservative anti-tax rhetoric (Cigler, 1993, page 181) that has left many cities with acute financial insecurity.

In response, municipal revenue generation has become more reliant on speculative development. For example, Kirkpatrick and Smith (2011) argue urban infrastructure projects serve as the “back door” through which cities increasingly exploit capital markets to finance and manage everyday urban affairs. Davidson and Ward (2014) go further to suggest that the speculative financing of urban infrastructure and services is not anomalous, but a generalized feature of urban-economic development. The recent advent of austerity policies has served to

highlight the fiscal and economic challenges internal to this speculative and debt-driven system of devolved federalism (Peck, 2012).

Given this context it is perhaps unsurprising that a city such as Detroit, MI, would become insolvent in 2013. For many “the bankruptcy had been coming for ages” (Davey and Walsh, 2013, np) given the city’s long history of deindustrialization, white flight and political dysfunction (Seelye, 2011). Yet even Detroit’s bankruptcy was not simply a function of economic decline within neoliberal federalism. Many factors contributed to Detroit’s default, including the imposition of the bankruptcy filing from the state government. Four months prior to filing for Chapter 9, Michigan Governor, Rick Snyder, appointed Kevyn Orr as emergency manager to rewrite contracts and liquidate municipal assets. Orr intended to do so without creditor consent under the auspices of an impending fiscal calamity, but he ultimately failed to impose an agreement (Peck 2012). Orr then used the bankruptcy courts to restructure the city’s finances.

Other recent municipal bankruptcies contain similar combinations of fiscal miscalculation and political decision-making, illustrating that bankruptcy has not simply occurred amongst the fiscally weak. In Jefferson County, AL, a default on \$3.14bn of sewer-related debt was precipitated by failed infrastructure financing. The county had paid J.P. Morgan to originate credit-swaps derived funding for its sewer works. The arrangement injected huge risk into Jefferson’s infrastructure financing. When the credit-swaps failed to hedge risk, the County’s entire finances failed. A corresponding financing arrangement also existed in Detroit, where the previous Kwame Kirkpatrick administration concocted, along with fee-charging Wall Street banks, a debt restructuring deal that bloated the City’s loan repayments. In contrast, Wall Street’s predatory financing did not play a significant role in the recent bankruptcies of San

Bernardino and Stockton. In these Californian cities, bankruptcy is explained, in part, by a combination of economic decline, onerous collective bargaining agreements and political dysfunction. While the neoliberal federalist framework is therefore important for understanding why a growing number of cities now face bankruptcy, there is a need to understand how the particularities of each case relates to broader restructuring processes.

In this paper, we introduce a case of municipal bankruptcy where austerity was cultivated *within* the city. Our argument is that bankruptcy was not simply imposed as a policy to deal with the problem of Vallejo's fiscal distress. Rather, the idea of bankruptcy had been present in the city for over two decades (see Figure 1). This idea became mobilized in the form of a unprecedented test of bankruptcy law during a period of crisis. In order to develop an understanding of how a city administration came to actively argue for its own bankruptcy, we draw on Castells' (1983) work on urban social movements to characterise Vallejo's bankruptcy as a case of "grassroots austerity".

### **Figure 1**

Castells (1983) argued that "there is [...] a close connection and a clear distinction between the dynamics of social classes and the formation and outcome of urban social movements" (page 67). The core of Castells' argument is that class struggles, traditionally situated on the shop floor, are often refracted into social struggles in and of the city, such that "neither the assimilation of urban conflicts to class struggle nor the entire independence of both processes of social change can be sustained." (page 68). These struggles have three basic

characteristics (page 328): (i) they consider themselves urban and/or related to the city; (ii) they are locally and/or territorially defined, and; (iii) they tend to mobilize around three major goals, (a) collective consumption, (b) cultural identity, and (c) political self-management. Hence, class antagonisms often become collective demand(s) for more public goods and services. The state mediates these conflicts to mitigate the consequences of capitalist development and generate the conditions necessary for economic growth (Saunders 1986).

Castells (1983) theory of grassroots social movements provides a framework for understanding Vallejo's bankruptcy. In Vallejo, we find a grassroots social movement – related to the city, territorially defined, mobilizing around collective consumption, cultural identity and self-management – playing a central role in the construction of bankruptcy. Although the movement was concerned with collective consumption, it differed to those described by Castells. For Castells (1983), the grassroots reacted against capitalist elites: “grassroots mobilization has been a crucial factor in the shaping of the city, as well as the decisive element in urban innovation against prevailing social interest” (page 318). Vallejo presents a more contradictory case.

Vallejo's bankruptcy did not witness “prevailing social interests” at the local, state or national level demanding austerity (Donald et al. 2014). Rather a grassroots movement, long in conflict with the pro-union urban regime, took the opportunity to install austerity when a fiscal crisis emerged. In doing so, it sought to both act against (i.e. reducing public sector salaries) and for (i.e. roll-out new services) collective provisioning. A clear demarcation between the two sides of the locally-manifest class antagonism (Uitermark et al. 2012) is therefore not always present in Vallejo's bankruptcy. While a neoliberal ideology shaped the movement's



understanding of the state, its actions were focused upon providing improved public services for the city's residents who were perceived to be being exploited by public sector unions.

The complex and sometimes contradictory class distinctions within Vallejo's bankruptcy movement mirror a broader upsurge of right-wing populism across the United States (Langman, 2012; Skocpol and Williamsom, 2012). Bankruptcy proponents within Vallejo had become concerned with the local state and its perceived corruption by union-aligned actors. However, the bankruptcy movement was largely absent of the cultural politics that are prevalent within nation-wide right-wing populism (Langman, 2012). Vallejo's bankruptcy movement is therefore distinct from those commonly regarded as "urban social movements" in that it was inspired by neoliberal ideology in order to transform – as opposed to simply reduce/remove – the local regime and collective provisioning (see Mayer, 2006). As the following account of Vallejo's bankruptcy unfolds, we seek to demonstrate how capitalist crisis, the economic status of Vallejo, and the actions of a social movement generated an unprecedented Chapter 9 bankruptcy from the bottom up.

### **Methodological Considerations**

Our methodological concerns center upon understanding the relationship between systemic economic distress and its refraction into governmental decisions made within Vallejo preceding and during its bankruptcy. To examine this relationship we investigated how the decision to file for bankruptcy was formed using qualitative discourse analysis of interviews and documentation (Hay, 2010). Research began in 2011 on the City's bankruptcy proceedings. This presented a condensed, but restricted, view of the bankruptcy as a contest between representatives of the City,

its labor unions, and the court ruling. To expand our reading of the case, we twice undertook fieldwork in Vallejo to collect (i) archival documentation from the Vallejo Times-Herald newspaper, (ii) documentation of the City's bond issuances preceding the Chapter 9 petition, and (iii) interviews with residents and officials involved in the bankruptcy. Data sampling followed snowball and purposive sampling techniques with informants. The collected data was thematically organized to assess the dominant arguments made to sustain or reject Vallejo's petition. Analysis of these competing discourses was used to reconstruct a narrative of Vallejo's bankruptcy that centered upon: (i) the main protagonists in the proceedings, (ii) the source of political contestation over bankruptcy, (iii) how this source of distress was positioned within the City's wider economic decline.

### **Municipal bankruptcy in times of neoliberal crisis**

Municipal bankruptcy law was established in the wake of the Great Depression. The 1933 Municipal Bankruptcy Act was written "to secure legal machinery to compel minority creditors of a municipality to assent to a plan of adjustment acceptable to a majority of creditors and to the debtor municipality" (Shanks, 1934, page 1072). In order to qualify for the protections a municipality must meet a four-fold criterion: (i) that the municipality has state authorization to file for Chapter 9, (ii) that the municipality is insolvent, (iii) that the municipality desires to adjust its debts, and (iv) that the municipality fulfills one of the conditions of Section 109(c)(5) (Trotter, 2011).

Municipal insolvency (ii) is a distinctive thing, since a city does not have the same financial structure as a private company. It is deemed insolvent not through a balance sheet test

(as per Chapter 11), but through a cash-flow analysis. A municipality is not required to have exhausted taxation measures to become eligible. A desire to adjust debts (iii) requires the municipality show it has negotiated in good faith with its creditors. Finally, Section 109(c)(5) requires that the municipality satisfy one of four conditions (ibid. 11): (i) that it has obtained the consent of the majority of claimholders in its proposed adjustment plan, (ii) that it has negotiated in good faith with claimholders but failed to come to an agreement, (iii) that negotiation with claimholders is impractical, or (iv) it believes that a creditor may attempt to obtain preference. If the municipality is found to meet Chapter 9 eligibility criteria it may enter into a court-mediated reorganization of its debts.

Since 1934, there have been over 640 Chapter 9 filings (Wozniacka, 2012). Most of these filings came from specially-designated speculative enterprise units or bond-financed development schemes. It is rare for an entire city to go bankrupt. With predictable revenues and expenditures, cities tend to be financially stable (Wesalo Temel, 2001). Furthermore, because of the predictability of municipal finances in an era of balanced budgets (Weber, 2002), contractual bargaining and renegotiations can occur within fairly defined parameters (Rubin, 1996). However, recent years have seen this landscape of municipal finance change. With the growth of neoliberal urban policies in the 1980s, intergovernmental transfers nationwide declined as much as 50 percent between 1980 and 1990 alone (Wildasin, 2010). California is exceptional in this case because its anti-tax tradition under Propositions 13 and 218 made cities *more* dependent on state revenue allocations, despite persistent efforts to reduce transfers to municipalities (Pringle, 2014).

With increased rates of competition for state and private investment, and above-inflation expenditure growth, many cities have had to become more entrepreneurial (Harvey, 1989;

Hildreth and Zorn, 2005; Peck and Tickell, 2002). Debt financing via capital markets is now the predominant mechanism used by municipalities to fund economic development (Harvey, 1989; Monkkonen, 1996). According to the Securities Industry and Financial Markets Association (SIFMA 2014), national municipal bond issuance increased from \$185 billion in 1996 to over \$330 billion in 2013. In California, trading volume increased from \$36 billion in 1996, to a peak of \$95 billion in 2009 – nearly a quarter of all national issuances that year. Therefore, cities must manage their budgets to maintain appropriate credit ratings to assure low interest payments and future access to bond markets (Hackworth, 2002).

This exposure to speculative financial risk was dramatically illustrated during the last major bankruptcy that took place in California prior to Vallejo (Jorion, 1995). In 1994, Orange County declared bankruptcy after losing millions of dollars speculating on national interest rates. By making the county's fiscal health entirely dependent on interest rate movements, Orange County is certainly indicative of the speculative, risk-taking spirit of entrepreneurial governance. However, the case also represents an event that might have been avoided if Orange County had exerted more oversight of its financial manager and/or more a conservative approach to investment. Vallejo differs in that its City Council voted for bankruptcy protection because of a long-predicted default. It became the first municipality to file for Chapter 9 protection solely because the City claimed it could no longer honor its labor contracts and that re-negotiating was financially and politically untenable (Greenhut, 2010).

### **The finances of a failed city**

Vallejo's finances in the decade preceding bankruptcy are marked by on-going attempts to generate revenues sufficient to meet growing expenditure relating to above inflation increases in labor costs (City of Vallejo, 1993; Mayer, 2008a). As such, the City was not in a strong financial position in 2007. While the City had over \$200 million in reserves, most of this was held in restricted accounts (Tanner *et al.*, 2008, page 12). The City's General Fund had few reserves and in 2007-08 was to suffer another multi-million dollar shortfall (see Table 1). It is common practice in such situations for municipalities to obtain loans to fund general expenditures. In Vallejo, this had historically involved borrowing short-term notes from the Risk Management Self-Insurance Fund. This borrowing was only permitted if the receiving fund was able to repay the loan within the fiscal year (see 'Court Contestation' below). Hence, there is a need for balanced budgets in everyday municipal management (Tanner *et al.*, 2008; Weber, 2010).

### **Table 1**

In the absence of substantial reserves within its General Fund in 2007, the City had to find new revenues. The City could not raise property taxes, due to the statewide restrictions imposed by Proposition 13 (Bardhan and Walker, 2011). Local sales taxes were already slumping and new tax increases were unlikely since under Proposition 218 any new or increased general tax must be approved by a two-thirds supermajority vote (Mayer 2008a, page 11).

The prospect of increasing revenues was also bleak since fees and associated incomes generated by new housing starts and ownership transfers had become a major source of municipal revenue. Between 2002 and 2007 these revenues had grown sharply, with Vallejo's

property tax assessments doubling (see Table 2) and associated permit fees growing at similar rates. However, the economic recession caused a two-thirds decline in housing starts, with 2006's high of 1,081 falling to 324 in 2008 (CBIA 2009). Similarly, Vallejo's median home prices plummeted from a peak of \$471,000 in 2006, to a post-crisis low of \$164,300 in 2010. These declines were double the national average (ZRER 2014).

## **Table 2**

In the absence of any new revenue streams, attempts at fiscal resolution focused on the City's expenditures. Specifically, the General Fund's largest outgoing: labor contracts. The majority of these contracts were held by four unions: the Vallejo Police Officers Association (VPOA); the International Association of Fire Fighters (IAFF), the International Brotherhood of Electrical Workers (IBEW), and the Confidential, Administrative, Management and Professional Employees (CAMP). The City was obligated to compensate public workers according to their respective CBAs. It could not adjust the terms of employment without the explicit agreement of the respective union. When disputes could not be settled, cases were sent to binding arbitration where a mediator applied a formula that assessed contractual claims based on an average of 14 Bay Area cities (City of Vallejo, 2008). This arrangement served to counter prevailing wage stagnation since it had, from the 1960s onwards, institutionalized above-inflation wage increases for unionized public employees. Public employees therefore collected relatively generous pay and benefits throughout decades of neoliberal restructuring (see below).

### **Table 3**

In the decade preceding bankruptcy, salaries and benefits associated with CBAs accounted for roughly three-quarters of Vallejo's General Fund expenditures (see Table 3). Another 20 percent of the Fund was dedicated to service and supply expenses, such as vehicle and street maintenance. The remaining funds were allocated to 'internal transfers' such as General Fund debt services. The proportion of Vallejo's General Fund allocated to labor costs was similar to other California cities (Mialocq, 2008). When Vallejo's revenues contracted in 2007-08, automatic salary increases built into CBAs meant balancing the city's budget became difficult. In the two years preceding Vallejo's bankruptcy, labor costs increased 11 percent while revenues grew only 2.6 percent (Mayer, 2008a, page 14). By July 2008, the General Fund did not have enough income to cover its payroll expenses (McManus, 2008). Of course, in the context of an economic crisis, this story is not unique (Peck, 2014).

#### *Paying for the speculative habit...*

Accounts of Vallejo's bankruptcy have typically explained it as being caused by a failure to control growing labor costs, an inability to generate revenue reserves large enough to buffer a recession, and a reliance on property development for municipal income growth (e.g. GMUSLGL, 2013). However, this diagnosis fails to incorporate an understanding of how systematic speculation contributed to the City's bankruptcy. Since the early 1990s, Vallejo engaged in a host of debt-financed redevelopment activities that were exceptional only because

they failed to produce the returns seen in other Bay Area cities (Lee, 2012). This generated a need to draw on General Fund revenues to prop up struggling redevelopment projects.

The redevelopment of Mare Island is exemplary of how speculation – and the costs associated with its failures – became a staple part of Vallejo’s budgeting (McManus, 2008, page 13-18). Since the closure of the US Navy base in 1993, Vallejo aggressively pursued redevelopment projects for the 6,000 acre site. In 1998, the City commissioned the property developer Lennar Mare Island LLC, a subsidiary of Fortune 500 Lennar Corp, to redevelop the site into a mixed-use neighborhood. After building three residential districts, the company filed for bankruptcy in 2008. The City estimated that Lennar’s bankruptcy would cost the General Fund an estimated \$4.5 million for the fiscal year 2008-09 and an additional \$4 million in subsequent years (Mayer, 2008b, page 3). Vallejo’s projected General Fund income for 2008-09 was already \$5.3 million less than the previous year, without accounting for Lennar’s bankruptcy (McManus, 2008, page 4). The prospect of the peninsula’s budget-saving wholesale redevelopment became remote as the recession deepened.

Unfulfilled speculative promise at Mare Island and falling revenues from key economic partners also combined with the continued failures of the City’s Redevelopment Agency (RDA).<sup>1</sup> Vallejo’s Agency was responsible for redeveloping the City’s 97-acre waterfront, building and maintaining the marina, redeveloping the Solano County Fairgrounds, and selling Six Flags Discovery Kingdom property. These projects were central to Vallejo’s entrepreneurial growth. However, the City increasingly came to rely on risky forms of debt financing to fund these projects.

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<sup>1</sup> All California’s RDAs were disbanded in 2012.



Table Four compares Vallejo and neighboring Sunnyvale's debt portfolios from 1999 to 2007. Both cities are comparable in that they are roughly the same size, with similar amounts and types of debt. For example, neither city issued a single general obligation bond throughout the 2000s, and each incurred approximately \$30 million in Certificates of Participation (COPs) for governmental activities. COPs are revenue bonds that do not require voter approval and are repaid through project fees and income. Unlike general obligation bonds, they are not backed by the municipal tax base, but are reliant upon the General Fund to cover unpaid debt. Both cities are therefore representative of the speculative, 'back door' debt-financing observed by Kirkpatrick and Smith (2011). However, Vallejo's financial directors were far more aggressive than Sunnyvale in exploiting capital markets to promote business-related activities. Vallejo acquired nearly six times more debt for business activities than Sunnyvale. By 2007, Vallejo's debt - per capita and as a percentage of personal income - far exceeded Sunnyvale's. Therefore, although Vallejo had not engaged in the derivative-based financial deals witnessed in Detroit, MI, and Jefferson, AL, it had acquired significant amounts of costly debt through riskier procurement techniques.

#### **Table 4**

As a consequence of Vallejo's financing activities, responsibility was placed on the General Fund as the 'fund of last resort' (Mialocq, 2008). In 2007, Vallejo held approximately \$280 million in municipal debt. Of this, \$54 million was backed by the General Fund in five COPs (Mayer, 2008a, page 17). All development projects are required to repay their debts to the City's coffers. However, unsuccessful investments rely upon the General Fund to act as the

guarantor of the debt (Tanner *et al.*, 2008, page 7). The compounded risk Vallejo undertook through speculative projects and bond financing directly impacted the City's solvency. For example, between 1993 and 2007, the General Fund advanced capital and operating subsidies totaling more than \$14 million to the Redevelopment Agency. However, in 1993, the annual city budget noted that the General Fund had already forgiven over \$6 million due in 1994 (Harvey Rose Associates, 2008, page 13). The following year, the City Council reduced the interest rate on loans to the Redevelopment Agency from 10 to 4 percent, despite the increased lending risk (McManus, 2008, page 14). By June 2003, advances from the Intra-governmental Loan Fund to the Redevelopment Agency Debt Service Fund totaled \$7.8 million.

Vallejo's consistent drawing on the General Fund to support failing redevelopment activities contrasts with other cities in the region, where redevelopment activities had been used to support basic municipal functions (Lee, 2012). These speculative failures help explain why Vallejo witnessed such fiscal distress in 2008. However, they do not explain how the City Council unanimously decided to make an unprecedented test of Federal bankruptcy law (Trotter, 2011).

### **An imminent bankruptcy?**

Between 1996 and 2007, Vallejo's General Fund balance was consistently ranked near the median of the 14 Bay Area cities that were used as comparators in CBAs (Mialocq, 2008). Since the City had survived previous downturns with the passage of Proposition 13, and was still able to double its property tax revenue throughout the 2000s (see Table 2), an account of why the City Council chose to pursue Chapter 9 protections is required.

In the midst of the 1990s recession, Vallejo councilmembers had organized a Citizen's Budget Advisory Committee (CBAC) to evaluate the City's finances and establish recommendations for long-term budgetary stability. The Committee was composed of nine community members, four accountants and a banker (Interview 2A, May 2011). Many members had little experience in public finance, and the then acting City Manager offered to help guide the Committee's research. Via the City Manager in neighboring Fairfield, CA, the committee was introduced to the budgeting practices of Sunnyvale, CA. Sunnyvale had become nationally acclaimed in right-wing policy circles (Mercer, 1994) for its experimental results-based governance that tied departmental funding to performance targets. As CBAC's interest in Sunnyvale and Fairfield grew, the committee was given David Osborne's 1992 book *Reinventing Government* (Interview 2A, May 2011) to circulate amongst themselves. Interviewed CBAC members claim that the book was pivotal in shaping how the City's fiscal problems were understood. Osborne summarizes his approach as follows:

"When people hear "reinventing government," their first thought is that I am referring to the federal government. But the solutions to our country's problems are not coming from Washington, D.C. They are coming from state and local governments all around the country [...] Government today consists of a lot of very dedicated people trapped in bad systems, budget systems that provide incentives to waste money, personnel systems and civil service systems that are cumbersome and provide little incentive. These systems and others must be changed if government is to improve its performance" (Osborne, 1993, pages 349-50).

The final CBAC report embraced this approach (Interview 2A, May 2011) and argued that (i) municipal revenues had stagnated or declined due to the erosion or instability of California State

revenue allocations, and weak income related to urban development; and that (ii) public sector employee compensation had consistently grown such that continuing this “trend [would] result in employee compensation costs equaling 100 percent of the General Fund revenues by FY 94/95” (City of Vallejo, 1993). The Committee proposed two possible reform options. The City could either retain the current system with increased revenues and reduced expenditures – such as increasing charges and fees on public services – or the administration could decrease expenses and increase efficiencies – such as renegotiating labor contracts, ending binding arbitration, and establishing merit-based raises. Union representatives contested the renegotiation of their labor contracts and suggested that the City expand urban development activities (City of Vallejo, 1993). Ultimately, the Democratic-led City Council pursued the latter. However, many CBAC members remained vocal in subsequent years. Thus, the CBAC report established a faction of small-state, anti-union reformers who, as a cohesive campaign group, repeatedly clashed with the political regime comprised of union-supported councilors and mayors (Interview 1B, June 2012).

Two CBAC members in particular, J.D. Miller and Joanne Shiveley, became staple contributors to the City’s political community and proponents of Sunnyvale-inspired governmental reform. Over the next two decades, they argued that without an overhaul to Vallejo’s public administration, fiscal collapse was certain. In a statement provided during Chapter 9 proceedings, J.D. Miller claimed that members of the 1993 CBAC had spoken personally with every city manager and finance director since their report was published. In Miller’s words: “Our final conclusion was that if the City did not change how it did business, it would continue to cut services to citizen stakeholders, it would continue to eliminate employees, year after year, and that it risked ending up in bankruptcy, all of which happened” (Miller, 2008).

### *Bankruptcy filing*

The financial crisis hit Vallejo at a moment of political turmoil. In September 2007, the City lost a \$4 million binding arbitration claim against the fire union over minimum staffing levels. The City's claim was a last attempt to cut labor expenditures. With both labor negotiations and binding arbitration failing to resolve the City's financial woes, the Councilmembers were left with few options when recession hit. Therefore, in December 2007, former CBAC member and now Councilmember Joanne Schivley convened a study group to examine declaring bankruptcy.

Even though Vallejo's eligibility for bankruptcy was unclear (Trotter, 2011), talk of bankruptcy stimulated negotiations between the City and unions. Through February 2008, City and union representatives continued to meet but came to no agreement. By late February, municipal staff members recommended the City file for Chapter 9 bankruptcy (McManus, 2008). Before this occurred, the police and fire unions had agreed to interim concessions. In the agreement, police and firefighters waived 1.7 percent and rolled back 6.8 percent of their 2007-08 salary increases. Additionally, the IAFF agreed to reduce staffing levels, while the VPOA deferred its minimum staffing requirement until May 2010. Finally, both unions agreed to continue negotiations to "provide for a General Fund reserve at the end of each fiscal year through June 30, 2012" (McManus, 2008, page 22).

From March through May 2008, union and City representatives met 11 times to discuss budget cuts and revenue generation options (ibid). On May 4, 2008 Vallejo made its final offer. The City agreed to respect salary levels established during the interim agreements, which were 5 percent higher than previously offered. Representatives also proposed a two-year contract extension with salary re-openers tied to the City's economic condition. The unions rejected the

offer. Two days later, the City Council unanimously voted to file for bankruptcy (McManus, 2008). They did so without knowing if their claim would be ruled eligible or what the financial costs of filing would be.

Vallejo's uncontested vote reflected the deadlock between the City and union representatives. The established political coalition of public employee unions and Democratic councillors was now falling apart, with councillors simply unable to accept union concessions that would not prevent default. Furthermore, the recent arbitration ruling against the City meant many Councilors now did not view labor concessions as sustainable without reform (Interview 5A, June 2012). The yearlong bankruptcy discussion had generated significant animosity toward unionized employees. Municipal employee wage listings were widely distributed on internet forums and featured in the local newspaper. These showed the highest paid police and fire officers earning \$202,421 and \$266,856 respectively. The City was paying over 200 workers, mainly police and fire employees, in excess of \$100,000 per year. In this context, the City's pro-union mayor stated in a press conference after the bankruptcy declaration, "...it became very difficult but to do anything than vote yes for bankruptcy" (May 6 2008).

### *Court contestation*

Between the Council's petition for Chapter 9, and the bankruptcy court's judgment, an important shift took place. The argument pushed by the CBAC was significant in promoting a clear, unambiguous case to be heard by the courts. However, the district court still needed to determine whether Vallejo was bankrupt according Chapter 9 provisos. Court contestation focused on contrasting interpretations of municipal insolvency. The labor unions were solely represented by Roger Mialocq from Harvey M. Rose Associates LLC, a public sector management consulting

firm based in San Francisco (Mialocq, 2008). Mialocq's argument was that in his 35 years of experience in municipal finance, Vallejo's accounting was "not consistent with prevailing budgetary practices of major cities and counties in California, or consistent with the policies of a city on the verge of bankruptcy, or both" (Mialocq, 2008, page 6). He noted, for example, the Redevelopment Agency's numerous unproductive investments and the Finance Department's failure to submit state reimbursement 'SB-90' forms for several years. He argued the City's fiscal distress was exaggerated and its Chapter 9 filing had not accounted for new revenue streams (Mialocq, 2008). In a 23-page report, Mialocq outlined additional cost savings and revenue increases that amounted to \$3.4 million, not including reduced labor costs under the interim agreements (ibid). The basis of Mialocq's testimony was therefore that Vallejo's bankruptcy claim needed to be set within the city's long-term history of financial mismanagement and (failing) speculative investment strategies. Without this, he claimed, insolvency appeared to be purely the consequence of onerous labor contracts. On this basis, the City would therefore not be eligible for Chapter 9 protections.

These findings were presented to City representatives. Vallejo's mayor, Osby Davis, reported that the Council was in agreement with much of Mialocq's assessment. Yet city representatives continued to argue that the report did not provide sufficient new revenue options to make the city solvent (McManus, 2008). Mialocq's audit was evidently conservative with its projections because Vallejo lacked a number of financial records prior to 1993, and the City had refused to provide statements concerning its bond finances, citing attorney-client confidentiality (Harvey Rose Associates, 2008). Furthermore, public accounting practices make it difficult to trace transfers between different accounts. For example, inter-fund transfers are often subsumed

within project funds, making it difficult to reconstruct how certain parts of the City's finances became stressed.

Susan Mayer was the lead witness representing Vallejo. She was a Certified Public Accountant with twenty-two years of professional experience and had worked as Vallejo's Assistant Finance Director since 2005 (Mayer, 2008a). Mayer acknowledged that the City's projected \$17 million deficit could be reduced by over \$6 million in the 2008-09 fiscal year. Therefore, she acknowledged the City could bridge some of the revenue gap, but a \$10 million deficit would remain. Further cost reductions could not be expected because there was little left to cut. Vallejo had already eliminated 87 full-time administrative positions since 2003-04, reduced funds for public works, and cut \$10 million from existing social programs and services (McManus, 2008).

Mayer's testimony focused on the immediate condition of the General Fund. She argued that none of Vallejo's previous expenditure reductions had stabilized the budget. The only remaining recourse was to eliminate labor protections (City of Vallejo, 2008; Mayer, 2008a). Mayer rejected the prospect of transferring revenues from other funds because, in her view, the City could not demonstrate its ability to repay the loans within the fiscal year (Mayer, 2008a). Additionally, any effort to access credit markets would be difficult because the General Fund lacked sufficient operating revenue. Indeed, Vallejo's main creditors, Union Bank of California and Wells Fargo Bank, refused to renegotiate their debt obligations without the City first implementing a long-term financial strategy to establish solvency (McManus, 2008). City



Manager, Joe Tanner, acquiesced to this refusal since he claimed it was important to ensure continued access to capital markets and did not address the central issue CBA restructuring.<sup>2</sup>

The Bankruptcy Court's decision focused on the claims made by City and union representatives that were relevant under Chapter 9, Section 109(c)(5). Chief Judge Michael McManus found that Vallejo met these requirements because the City's financial state could only be judged at the date of Chapter 9 filing, not "as they could exist under hypothetical circumstances" (McManus, 2008, page 46). This interpretation of insolvency established a crucial precedent in Chapter 9 legislation. Municipal bankruptcy legislation was designed to enable the construction of a bankruptcy-exit plan that could be agreed upon by the debtor and the majority of creditors. The City Council's petition sought to install a bankruptcy plan of adjustment *despite* the majority of creditors (i.e. employees with CBAs) being opposed. The court was therefore forced to make a decision based on whether good faith negotiations were entered into by the relevant unions. Given that the unions had failed to agree to CBA changes that would ensure the City's solvency, it was ruled that good faith negotiations had not taken place. As such, the court was then in a position to rule on a debt readjustment plan that creditors would have little say in developing. The ruling therefore made Vallejo's bankruptcy a problem of unviable union contracts. With Chapter 9 protections granted, the City could therefore turn to the court for approval of its plan of adjustment, not its creditors. In effect, the ruling confirmed the conclusions of the 1993 CBAC report and institutionalized in legal precedent a framework to impose austerity reforms for other fiscally distressed cities.

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<sup>2</sup> Comment made by Joe Tanner at Breakfast Buffet Meeting of The Contra Costa County Taxpayers Association, June 24<sup>th</sup> 2011

## **Conclusions: Austerity from Below**

In 2011, the Federal Bankruptcy Court approved Vallejo's plan of adjustment. This allowed Vallejo to restructure its CBAs, which included significant reductions to retiree health and pension benefits. The City also restructured its bond debts, deciding to repay between 5 to 20 cents on the dollar to creditors holding unsecured debts (Jensen 2011). However, these terms were later renegotiated with lenders accepting reduced interest rates in return for full repayment (Church 2011). Retiree benefit cuts were never renegotiated by the City (ibid). The ability to implement these types of reforms has made Chapter 9 appear an attractive solution for cities suffering from endemic economic decline. Officials in Stockton, CA went so far as to recruit Susan Mayer from Vallejo to help implement their own bankruptcy proceedings in 2010 (Jensen, 2011a).

However, the benefits of municipal bankruptcy have been short lived in Vallejo. Two years after filing for Chapter 9 protections, Vallejo had incurred \$9.5 million in legal fees – nearly the cost of the contested 2008-09 budget deficit. This led many to claim that a lot of money was spent with very little outcome (Vekshin and Braun, 2010). Vallejo has also continued to run deficits and has been unable and/or unwilling to substantially renegotiate labor contracts post-bankruptcy. The benefits of Chapter 9 have therefore been limited in Vallejo. The impacts of the filing, however, continue to unfold with the City now pursuing some of the first post-crisis participatory budgeting reforms in the United States.

Other cities have since explored possibilities for using Chapter 9 to drastically overhaul creditor obligations. Most notably, San Bernardino, CA and Detroit, MI have moved to make unprecedented changes to labor contracts, pensions and services under Chapter 9. Vallejo's

pensions were left untouched in court proceedings because the City was unwilling to risk a threatened lawsuit from the California Public Employees Retirement System (CALPERS) (Reid, 2013). San Bernardino and Detroit have not held the same misgivings (Malanga, 2014).

The significance of Vallejo's bankruptcy ultimately rests not on the reforms enacted, but on the nation-wide implications of the filing and subsequent Federal Bankruptcy Court ruling. Vallejo suffered from many of the problems seen in other distressed cities and had ploughed funds into unproductive redevelopment schemes over many years. However, these entrepreneurial failings only resulted in a Chapter 9 filing because the City Council was willing to test bankruptcy law and expose the City to unlimited legal costs. This decision was, however unusual, a familiar one for a City Council that had long had a grassroots movement arguing for radical governmental reform to avoid insolvency. Vallejo's bankruptcy therefore saw structural conditions (i.e. the extremes of entrepreneurial governance) come together with local political decision making in ways that have informed austerity reforms nationally.

Vallejo's bankruptcy is a story of how a grassroots movement interacted with systemic processes in a ways that, perhaps inadvertently, have generated conditions for change within the structures of urban governance. As a consequence of the actions taken in Vallejo, austerity means something much more significant in places such as Detroit and San Bernardino. Austerity can therefore be viewed as emergent in two forms. It develops out of political responses to national economic crises (Blyth, 2013; Peck, 2014). But it is also generated from locally contingent political alliances that are formed to negotiate the uneven terrain of regional and national development cycles. As Castells' (1983) argued, these highly localized decisions can have a lasting impact on the wider structures of government (e.g. law, accounting practices) by which they themselves are meant to be defined. The main distinctions between Vallejo and the

cases used in Castells' (1983) narration of urban social movements are that (a) the dividing lines between regressive and progressive urban reform (b) and the relationship between urban regimes and social movements appear more confused. In reference to the former, Vallejo's pro-bankruptcy social movement sought a reform of collective consumption delivery, as opposed to any simple increase and/or reduction. In terms of the latter, the city's pro-union urban regime was historically not aligned with "prevailing social interests" (ibid. page 318). The grassroots social movement that propelled the city towards bankruptcy took advantage of their opportunity to realign the city's politics, despite no clear eligibility for bankruptcy. It was therefore long-cultivated ideological differences, themselves refractions of class antagonisms, that were crucial in making Vallejo's bankruptcy a pivotal moment in austerity's roll-out across the United States.

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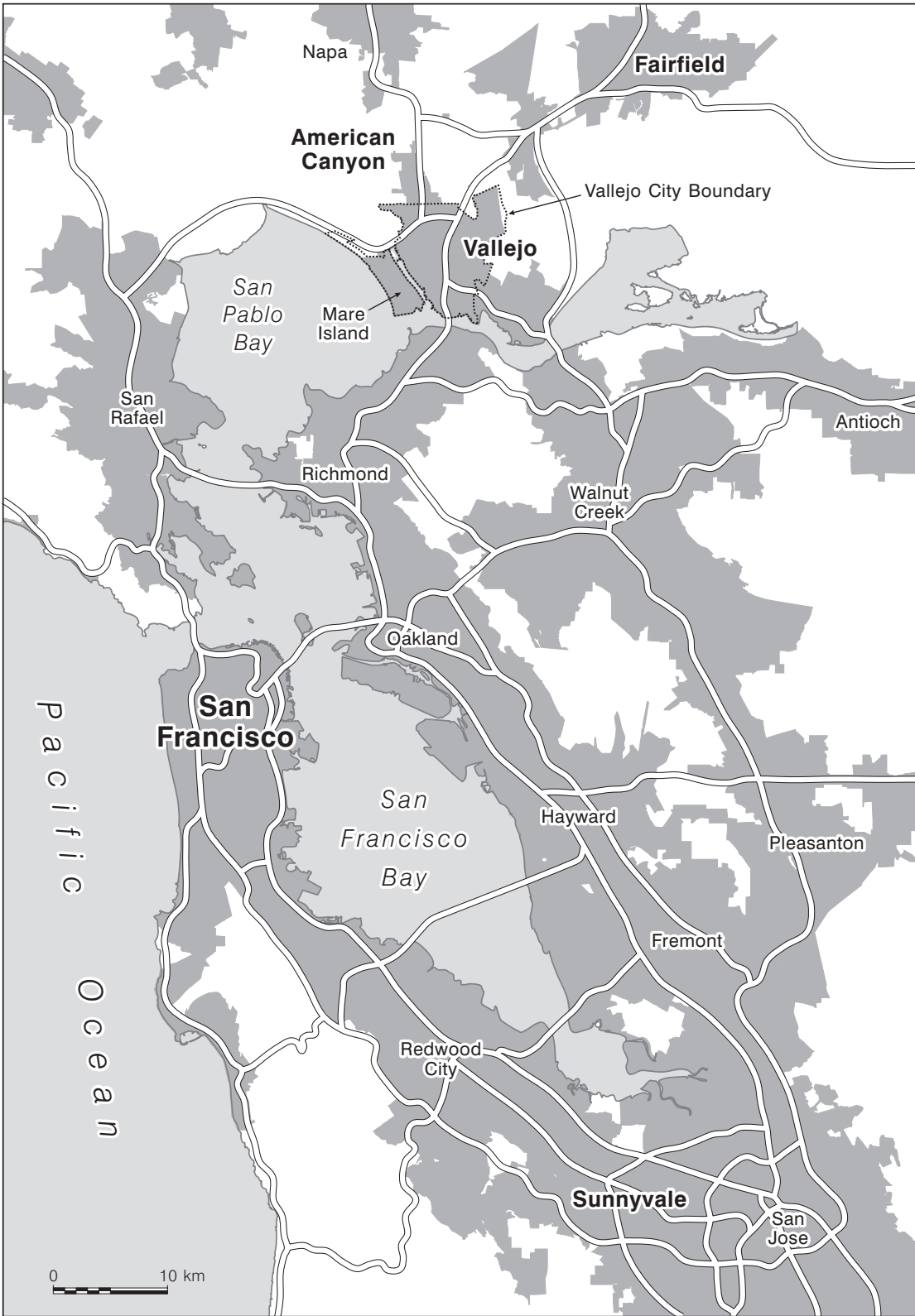
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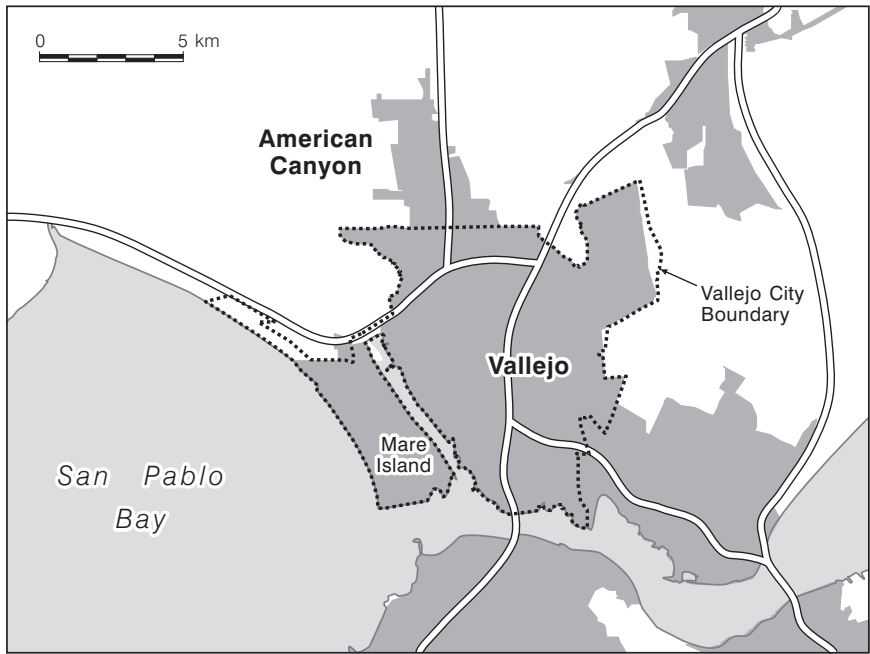


Figure 1: Timeline of key events relating to Vallejo bankruptcy

Date	Event
1993	Citizen's Budget Advisory Committee (CBAC) predicts bankruptcy for City of Vallejo without radical reform of public employee compensation structure
Start of 2008	Vallejo's projected General Fund revenues for 2007-8 of \$85m actualize at only \$76m (\$10m deficit)
February-March 2008	Failed negotiations with police (VPOA) and fire unions (IAFF) to restructure CBAs to ensure solvency
May 6 <sup>th</sup> 2008	City Council votes unanimously (7-0) to file for Chapter 9 bankruptcy
May 23 <sup>rd</sup> 2008	<b>City of Vallejo files for Chapter 9 bankruptcy</b>
June 8 <sup>th</sup> 2008	Lennar Mare Island LLC files for Chapter 11 bankruptcy, taking \$4.5 million out of City 2008-9 budget
March 24 <sup>th</sup> 2009	City announces proposed budget with \$12m deficit (10-17% decline in revenues predicted)
September 1 <sup>st</sup> 2009	Judge Michael McManus approves rejection of Vallejo's CBAs with IBEW (International Brotherhood of Electrical Workers) under Chapter 9
June 8 <sup>th</sup> 2010	City ballot votes positively (51.26%) to eliminate binding arbitration employee resolution from City Charter, therefore accepting another 1993 CBAC recommendation
November 1 <sup>st</sup> 2011	Federal Bankruptcy Court (Solano County) releases City of Vallejo from Chapter 9 bankruptcy
April 17 <sup>th</sup> 2012	City Council approves groundbreaking city-wide \$3.4m participatory budgeting process
June 30 <sup>th</sup> 2013	City's Annual Financial Report announces a \$6m deficit in General Fund. City claims deficit comes from supplemental pension payments to CALPERS.

**Table 1:** Vallejo's revenues and expenditures (Source: Vallejo City Budgets 2000-1 thru 2008-9). Note: Dollar amounts are not inflation adjusted.

	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
<b>Revenues</b>	<b>60,100,700</b>	<b>62,871,800</b>	<b>67,051,300</b>	<b>67,520,000</b>	<b>79,134,362</b>	<b>81,109,558</b>	<b>82,507,578</b>	<b>83,628,701</b>	<b>76,672,351</b>
Transfers In	0	0	2,242,700	2,670,000	3,619,672	3,286,188	1,670,819	4,954,266	1,622,168
Marine World JPA Fund/Six Flags	0	0	2,242,700	2,970,000	2,297,339	2,977,418	1,454,096	1,675,251	0
Other	0	0	0	0	1,322,333	308,770	216,723	2,879,015	207,168
Loan repayment	0	0	0	0	0	0	0	400,000	415,000
Risk Fund	0	0	0	0	0	0	0	0	1,000,000
<b>Total</b>	<b>60,100,700</b>	<b>62,871,800</b>	<b>69,294,000</b>	<b>70,190,000</b>	<b>82,754,034</b>	<b>84,395,746</b>	<b>84,178,397</b>	<b>88,582,967</b>	<b>78,294,519</b>
<b>Expenditures</b>	<b>58,898,800</b>	<b>64,733,200</b>	<b>65,191,784</b>	<b>69,873,353</b>	<b>78,263,691</b>	<b>89,978,635</b>	<b>94,132,012</b>	<b>97,840,685</b>	<b>85,756,002</b>
Transfers Out	0	0	2,459,030	1,820,647	1,954,741	5,510,648	2,552,387	1,813,711	2,644,611
Capital Projects	650,000	360,000	334,340	0	0	0	0	0	0
Claims Pool	0	0	0	0	0	0	0	0	892,418
Community Development Fund	0	0	715,600	0	0	0	0	0	0
Debt Service Funds	0	0	606,434	1,091,547	1,434,033	1,292,314	1,452,387	1,713,908	1,182,524
Debt Service - Marina	0	0	0	0	0	0	0	0	343,102
Employee Leave Reserve	515,500	385,500	400,000	0	0	0	0	0	226,567
Fighting Back Fund	50,000	177,200	177,200	0	0	0	0	0	0
Marina	0	0	0	0	0	500,000	300,000	0	0
Redevelopment Agency	0	0	0	729,100	520,708	484,042	0	0	0
Transportation	0	0	0	0	0	2,627,000	425,000	99,803	0
Other	0	205,200	225,456	0	0	607,292	375,000	0	0
<b>Total</b>	<b>58,898,800</b>	<b>64,733,200</b>	<b>67,650,814</b>	<b>71,694,000</b>	<b>80,218,432</b>	<b>95,489,283</b>	<b>96,684,399</b>	<b>99,654,396</b>	<b>88,400,613</b>
<b>Balance</b>	<b>1,201,900</b>	<b>-1,861,400</b>	<b>1,643,186</b>	<b>-1,504,000</b>	<b>2,535,602</b>	<b>-11,093,537</b>	<b>-12,506,002</b>	<b>-11,071,429</b>	<b>-10,106,094</b>

**Table 2:** Vallejo's Property Tax Revenues (Source: Vallejo City Budgets 2000-1 thru 2008-9) Note: Dollar amounts are not inflation adjusted.

	<b>2000-01</b>	<b>2001-02</b>	<b>2002-03</b>	<b>2003-04</b>	<b>2004-05</b>	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>	<b>2008-09</b>
Property Tax	10,039,700	11,243,200	11,761,900	12,681,006	13,623,535	15,857,808	18,776,182	19,473,533	17,670,610
Property Transfer Tax	2,470,100	2,379,800	3,214,800	4,020,000	5,481,108	5,106,488	3,778,090	1,696,396	1,973,068
Real Property Exercise Tax	998,500	1,142,000	1,859,900	842,000	2,054,766	256,438	662,491	91,039	44,770
Development Fees and Permits	3,280,200	3,023,400	3,589,600	3,787,919	5,300,475	3,543,898	2,578,731	2,613,218	1,329,205
<b>Total</b>	<b>16,788,500</b>	<b>17,788,400</b>	<b>20,426,200</b>	<b>21,330,925</b>	<b>26,459,884</b>	<b>24,764,632</b>	<b>25,795,494</b>	<b>23,874,186</b>	<b>21,017,653</b>
<i>Yearly change</i>		999,900	2,637,800	904,725	5,128,959	-1,695,252	1,030,862	-1,921,308	-2,856,533
Other revenues	43,312,200	45,083,400	46,625,100	46,189,075	52,674,478	53,058,738	55,041,265	54,800,249	54,032,530
<i>Property-development related revenues as percentage of total revenues</i>	28%	28%	29%	30%	32%	31%	31%	29%	27%



**Table 3:** Vallejo's payroll expenditures (Source: Vallejo City Budgets 2000-1 thru 2008-9) Note: Dollar amounts are not inflation adjusted.

	<b>2000-01</b>	<b>2001-02</b>	<b>2002-03</b>	<b>2003-04</b>	<b>2004-05</b>	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>	<b>2008-09</b>
Salaries and Benefits	47,053,100	51,201,200	54,985,361	60,724,500	57,925,501	66,729,543	72,553,937	63,088,554	63,077,705
<b>% of General Fund revenues</b>	<b>78%</b>	<b>81%</b>	<b>82%</b>	<b>90%</b>	<b>73%</b>	<b>82%</b>	<b>88%</b>	<b>75%</b>	<b>82%</b>
<i>Breakdown by department:</i>									
City Attorney	876,400	859,600	899,644	869,500	756,052	915,195	972,273	1,028,538	894,295
Community Development	1,734,900	1,768,600	2,073,948	2,173,100	1,996,989	2,282,512	2,626,688	3,490,709	3,007,826
Executive	949,000	935,400	1,065,077	1,152,300	1,107,615	1,152,300	976,559	595,644	892,031
Finance	1,684,900	1,957,900	2,051,004	1,876,400	1,823,170	2,001,440	2,111,810	2,270,751	2,437,866
Fire	13,699,500	15,390,700	16,287,099	19,453,500	16,435,852	21,487,900	23,884,524	19,189,257	19,361,939
Human Resources	868,500	983,200	916,033	899,400	929,018	1,058,715	1,109,834	854,540	569,582
Legislative and Advisory	212,400	230,600	247,794	265,300	256,144	289,678	301,740	319,893	350,128
Police	22,547,900	24,217,500	26,123,884	27,876,700	28,503,628	31,157,363	34,008,652	28,775,323	28,942,141
Public Works	4,479,600	4,857,700	5,320,878	6,158,300	6,117,033	6,384,440	6,561,857	6,563,899	6,621,897

**Table 4: Comparison of debt issuance in Vallejo and Sunnyvale, 1999-2007**

Sunnyvale				Business-Type Activities				Percentage of	
Year	Gen. Ob. Bonds	COPs	Total G.A.	Water Bonds	Waste Bonds	Total B.A.	Government Total	Personal Income	Debt Per Capita
1999	0	20,695	30,575	20,177	20,165	40,342	70,917	0.10	533
2000	0	20,050	29,510	19,591	19,575	39,166	68,676	0.08	516
2001	0	38,085	47,105	18,970	18,955	37,925	85,030	0.10	432
2002	0	37,020	45,570	31,877	18,296	50,173	95,743	0.12	721
2003	0	35,920	43,975	30,740	20,442	51,182	95,157	0.12	718
2004	0	34,775	42,949	29,563	19,426	48,989	91,938	0.11	694
2005	0	33,585	41,252	28,346	18,371	46,717	87,969	0.10	661
2006	0	32,345	39,731	27,089	17,275	44,364	84,095	0.09	630
2007	0	31,045	38,095	25,783	16,149	41,932	80,027	0.08	590
Sunnyvale CAFR, 2008									
Vallejo									
Governmental Activities			Business-Type Activities			Percentage of			
Year	Gen. Ob. Bonds	COPs	Total G.A.	COPs	Loans and Notes	Total B.A.	Government Total	Personal Income	Debt Per Capita
1999	0	0	9,299	96,175	12,340	176,888	186,187	6.86	1,661
2000	0	4,815	13,662	95,883	12,340	177,282	190,945	6.61	1,675
2001	0	17,792	26,254	153,471	8,852	236,736	262,991	8.17	2,252
2002	0	17,577	31,863	150,856	28,991	253,370	285,233	8.38	2,409
2003	0	28,582	44,455	149,071	28,257	249,349	293,805	8.34	2,452
2004	0	34,735	49,748	147,143	27,834	245,521	295,270	8.12	2,450
2005	0	30,505	44,691	138,299	19,981	227,235	271,927	7.02	2,243
2006	0	29,715	44,034	156,721	18,807	242,816	285,851	7.05	2,368
2007	0	26,612	39,729	153,269	17,780	236,932	276,662	6.61	2,285
Vallejo CAFR, 2007									