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June 30, 2006

The Honorable Brian McCabe
Presiding Judge
Merced County Superior Court

Dear Judge McCabe:

As per section 933 of the California Penal Code, I proudly submit the hard work of the 2005-2006 Merced County Grand Jurors, to you and the citizens of Merced County.

Our Grand Jury inspected Merced County Juvenile Hall, Merced County Jail (both Sandy Mush as well as the main jail), Atwater Fire Department as well as following up on a couple of complaints from last year.

All correspondence recorded was discussed before the full body and appropriate action taken.

We had a wonderful cohesive group of citizens who took their jobs seriously and didn't leave a stone unturned.

We are proud of our work on behalf of the citizens of Merced County and we are grateful to have served on the 2005-2006 Merced County Grand Jury.

Respectfully,

Linda A. Dash, Foreperson
Merced County Grand Jury

**CITY OF MERCED
POLICE DEPARTMENT
INSPECTION**

INTRODUCTION:

On April 13, 2006, a committee of the Grand Jury conducted an inspection of the Merced Police Department, with the tour of the facility conducted by Commander Schindler.

FINDINGS:

Commander Schindler presented the Grand Jury committee with an overview of the entire operation of the Merced Police Department. He explained that as a result of measure C passing they hope to expand their uniformed force to 99, from the current level of 87, in addition to a pay increase for the officers of 23% to 26% over the next few years. This pay increase will help with the recruiting, making them more competitive with other law enforcement agencies in the valley. Additionally, this pay increase will help with retention.

Commander Schindler explained how the officers are deployed, how the city is divided into three different areas, and how officers are deployed in these areas based on the needs of the community.

The Grand Jury committee was shown the officer's briefing room, locker room, animal control office, traffic division, auto theft and detective offices, as well as the administration division. The Grand Jury committee was shown how evidence was processed, documented and stored. The evidence room was very well organized and was neat and clean. The Grand Jury committee was shown the computer forensic room where evidence of computer and cell phone crimes are investigated and processed. This room is set up similar to the evidence room but has additional security and very specialized equipment. The Merced Police Department has a very hi-tech and advanced computer crimes investigation division with a very qualified and experienced detective. This specialized division is also called upon to assist other law enforcement agencies.

The Grand Jury committee inspected the records department, which was very well organized. All records are backed up on a computer and meet the current retention rates as required by law. The dispatch center was briefly inspected as it was being updated with new state of the art radios and computer aided dispatch consoles.

Upon completion of the tour, the Grand Jury committee met with the new Chief of Police. Chief Thomas explained his philosophy on law enforcement and said he is considering changing the alignment of the command staff; administration, operations and investigations to better serve the community. He wants to expand the department's capabilities, which include expanding the reserve program, recruiting and retention.

SUMMARY:

The Merced Police Department is a very well organized, progressive and professionally managed department and serves the needs of the community very well. The department has kept up with the demands of the community it serves. The entire facility is very clean and organized and projects a professional image. We feel the new Chief of Police will be able to maintain the level of excellence for the department. The Chief is not only well educated but very well experienced and will be a major asset to both the department and the community.

**CITY OF ATWATER
FIRE DEPARTMENT
INSPECTION**

INTRODUCTION:

On October 21, 2005, members of the Grand Jury toured the Atwater Fire Department located on Broadway Street in Atwater.

The City of Atwater Fire Chief Ed Banks met with the Grand Jury committee and gave the members an overview of the daily operation of the Fire Department.

The Chief explained that they have three shifts per day with two Captains and two Engineers per shift. In 2004 they responded to 1498 calls. Currently they have two firefighter positions open and have not been filled in the past 12 months. An additional fire station is scheduled to be built on Avenue Two in the near future.

FINDINGS:

The Atwater Police chief now oversees the Fire Department as well as the Police Department. The Atwater City Fire Department appears to be both well organized and managed. They use both volunteers and part-time help to assist in providing the required coverage. The facility is also shared with the Merced County Fire Department. The current employees are very well trained and highly experienced. The Atwater Fire Department has a very active training program for the employees to maintain their qualifications.

RECOMMENDATION:

None

COMMENDATIONS:

We commend Chief Banks for his smooth running operation and thank him for allowing us to tour his department.

**MERCED COUNTY CORONER'S OFFICE
LATE DEATH CERTIFICATES
GRAND JURY COMPLAINT #04-05-03 FOLLOW-UP**

INTRODUCTION:

The 2004-2005 Grand Jury received a complaint alleging excessive time was spent finalizing death certificates and that over 100 pending cases covering a two-year period were found. The complainant alleged that the inquiries did not receive professional response.

Because of the number of outstanding death certificates and the seriousness of the complaint, the 2005-2006 Grand Jury felt it important to follow-up on the complaint.

METHOD OF INVESTIGATION:

The Grand Jury visited with the employees of the Coroner's Office.

FINDINGS:

It was noted during the review of the Coroner's Office that the items noted by the prior years Grand Jury committee had not been addressed. The record keeping system currently utilized is one that has been in place for numerous years in which a manual entry of cases pending death certificates is denoted and status of such with a circular peel-off label. Although there appears to be adequate technology evidenced at the site to maintain an up-to-date streamlined data entry system, it has not been addressed and/or utilized. Information is taken from the Coroner's Office to another office across town to be entered instead of entering the information at the Coroner's Office.

There is an average of approximately 80 cases per month that pass through the coroner's office which employees four (4) full-time deputy coroners. Fifteen certificates are currently pending for the 2005 year.

The Grand Jury toured the facility and noted that a new decomposition room had been built in 2004 to aid the pathologists in their examinations. The cost to the County of Merced for this new addition was approximately \$260,000.00. Although this room was built to benefit the coroner's office, it was discovered that it was not working at the time of the visitation by the Grand Jury, nor had it worked since completion of construction in 2004. There was no documentation of contact(s) made with the building contractor to address the correction of the problem. A follow-up visit by the Grand Jury was made to the Coroner's Office on April 15, 2006 upon which they were informed that the decomposition room had been repaired three weeks prior. The repair to the room consisted of the installation of a \$3,000.00 exhaust fan.

The Coroner's Office is in a position to meet the public concerning the death of family members or close friends. The meeting to discuss personal matters is often held at a

table that is positioned in an open area in central traffic. There is no privacy exhibited for the client.

Although the Coroner's Office is under the supervision of the Sheriff, it was noted by interviewing employees that a regular assessment of operations and facilities was not in evidence.

An initial review of the Coroner's Office interior and exterior exhibited a need of repair and maintenance for both building and grounds.

Upon questioning the staff at the Coroner's Office, there is definitely education lacking in the field and an on-site pathologist is absent.

RECOMMENDATION:

A private room should be used to meet the families eliminating the table and chairs that are in open view.

With the advent of technological advances and basic computer programs, the utilization of such within this office would greatly improve the operation of this office's record-keeping and systematic review of outstanding certificate and reports.

The general appearance of the interior and exterior of the facility should be adequately maintained.

It is recommended that a regularly scheduled meeting be held by the Sheriff with the staff at the facility to monitor operations and productivity.

The overall appearance of the building inside and out on the first visit was in disrepair, with grass and out of control weeds and cobwebs on the outside of the building. The second visit in April, the outside was appearing to look better.

An up to date information system needs to be purchased if budget permits.

More interest needs to be taken in the general appearance of the exterior and interior of the office.

**MERCED COUNTY PROBATION DEPARTMENT
IRIS GARRETT JUVENILE JUSTICE CORRECTIONAL CENTER
MANDATED INSPECTION**

INTRODUCTION:

California Penal Code Section 919 mandates the Grand Jury the Yearly responsibility to visit the correctional facilities within Merced County.

A tour of the Iris Garrett Juvenile Justice Correctional Center located at 2586 West Sandy Mush Road, Merced, was conducted on February 14, 2006.

The Grand Jury toured the facility and examined each dorm, food service facility, classrooms and recreational facilities. Both male and female juveniles at the facility were interviewed.

FINDINGS:

The supervisor of the facility conducted the tour. The entire facility was very clean, well organized and in excellent condition. The Grand Jury examined each dorm of the facility. There is a central control station at each dorm wing where all activities of the juveniles are constantly monitored and controlled. The food service facility was inspected and found to be very clean and well managed. A nutritionist oversees the food that is to be prepared and served to the juvenile inmates. The primary meals are prepared at the John Latorraca Correctional Facility and transported to the Juvenile Hall. The food served is well balanced and very good. The juvenile inmates are also served snacks between meals, which is primarily fruit. The facility offers classroom instruction so inmates can continue their education along with some vocational training. The juvenile inmates' daily routine is well structured and monitored closely. The facility has more than sufficient recreational opportunities for the juvenile inmates. The staffing level at the facility appears to be very good with no staff shortages. Also located in the facility is a courtroom. This expedites the judicial process as well as eliminates any transportation between the facility and court and reduces the costs of the transportation and security for the County.

Both male and female juveniles were interviewed. The only constant complaint was they didn't receive enough food. There were no other complaints made about the staff of the facility.

RECOMMENDATIONS:

The staff at the Merced County Juvenile Hall facility is to be commended for the excellent work they have done. The facility is very secure and well managed. The juvenile inmates are closely monitored and controlled through the day.

The facility should look into the amount of food served to the inmates or make available more food for those inmates who want more. They are young, active and still growing and would require more food than the average adult.

**JOHN LATORRACA CORRECTIONAL FACILITY
MERCED COUNTY GRAND JURY
MANDATED INSPECTION**

INTRODUCTION:

California Penal Code Section 919 mandates the Grand Jury the yearly responsibility to visits the correctional facilities within Merced County.

A tour of the John Latorraca Correctional Facility at 2564 West Sandy Mush Road, Merced was conducted on February 14, 2006. The Merced County Sheriff's Department is responsible for the daily operations of the facility under the command of Sheriff Mark Pazin.

The Grand Jury invited the Merced County Board of Supervisors to join them on the inspection. Also present was the Merced County CEO, Human Resources Manager and County Counsel.

Under Sheriff Bill Blake and Commander Rick Thorsen gave a brief presentation on the operations of the facility. There also was a display of various prison made weapons that had been confiscated within the facility (refer to photos attached).

The Grand Jury and Board of Supervisors toured the facility and examined each dorm and the food service facility. Both male and female inmates of the facility were interviewed.

FINDINGS:

Staffing at the facility is a critical issue and is at a crisis level. The ratio of correctional officers to inmates continues to remain dangerously low. Currently on each shift, there are eight correctional officers on the facility grounds. The facility always has more inmates than the maximum number of beds available for inmates. On the average, there are 80% male inmates and 20% female inmates. A large percentage of these inmates are charted with serious and violent crimes. The low staffing increases the danger to both staff and inmates. The facility operates at maximum capacity throughout the year. Annually, hundreds of inmates are released prematurely to allow for more incoming inmates to be housed. The former library on site has been converted into a dorm in order to accommodate more inmates. Due to correctional officer shortages, there are no correctional officers in the kitchen while inmates prepare meals. The civilian cook oversees the meal preparation and is not qualified to supervise inmates who have access to knives and other dangerous implements.

Inmates with severe mental health problems, who can't be controlled by Mental Health Department, are placed in custody and allowed to remain in custody until they are either transferred to a State Mental Health facility or released. This causes undue hardship and stress on the Correctional Officers.

There is excessive overtime paid out due to staff shortages and here are times when Correctional Officers are required to work additional shifts. Due to the high stress of

their position, the morale of these Correctional Officers is also affected. Lack of adequate staffing during volatile times escalates the potential for violence.

The Grand Jury inspected each dorm of the facility. In each dorm there were shortages of beds with inmates sleeping on mattresses on the floor. The kitchen facility was also inspected and observed the evening meal preparation. The facility serves two hot meals and one cold meal to each inmate each day. The meal was adequately prepared, hot and contained more than a sufficient amount of food. The kitchen was very clean and well organized.

The Grand Jury committee met with the County CEO who stated that he would put an additional four (4) Correctional Officers in the budget each year until the facility is a safe workplace.

RECOMMENDATION:

The Sheriff and staff continue meeting with Correctional Officers in order for him to stay informed of the current situation and concerns of the facility.

The Merced County Board of Supervisors should be required to tour the facility annually. During the tour on 2/14/06 with the Grand Jury, two supervisors mentioned that this tour was a "waste of time".

The overcrowding at this facility remains at a crisis level. Funding should be immediately obtained to hire additional staff as well as meet the operational expenses. Alternative funding should also be pursued which should include both Federal and State governments. This is a critical safety issue as well as a liability issue for the County. Over the past six (6) years different Grand Jury panels have visited this facility and all have come to the same conclusion. **Staffing at this facility is at a crisis level!**

Adequate staffing will eliminate many of the current problems at the facility. This would also help the safety issue of Correctional Officers with the ratio of officers to inmates. On February 11, 2006, inmates filed a grievance with the facility Commander, citing overcrowding at the facility. Further the grievance cited frustration as this overcrowding created tension, fights and disciplinary problems. **Note: As of May 26, 2006 the jail was still in "lockdown" status due to several altercations in the jail yard.**

The previous California Board of Corrections report was also critical of staff shortages.

With the current growth of Merced County, both the Sheriff and the Merced County Board of Supervisors need to immediately start resolving this problem since it will only get worse by the month. Alternative housing options should be explored. The expansion of the current facility and/or an additional facility should be pursued. With the time it takes for funding, the bids for contracts, environmental impact reports and construction of an additional facility, we could be looking at several years before any relief is in sight. The public has become more aware of problems in both jails. There has been an overall lack of attention for these concerns in the past, by the County Board of Supervisors. If they don't act now in an efficient and effective manner, it will be far more costly for the County in the future.

COMMENDATIONS:

Commendations are in order to the staff of the John Latorraca Correctional Facility for the very professional manner in which the tour was handled. Commendations are also in order to the Correctional Officers for the continued commitment for working under such stressful conditions.















**MERCED COUNTY SHERIFF'S DEPARTMENT
MAIN JAIL
MANDATED INSPECTION**

INTRODUCTION:

On February 2, 2006, the Grand Jury inspected the Mail Jail at 700 West 22nd Street, Merced.

METHOD OF INVESTIGATION:

2/2/06 A Grand Jury committee met with the main Jail Commander and inspected the main jail at 700 West 22nd Street.

The Grand Jury committee was given a tour of the main jail facility that was conducted by Commander Burk.

FINDINGS:

At the main jail on 700 West 22nd Street, the Grand Jury committee was shown the operations center where the various doors and gates are opened and closed, TV surveillance cameras are used for monitoring, as well as a review of the booking process, which included the operation of the life scan equipment for fingerprinting. The medical staff was interviewed and the medical department was inspected. The meals served to the inmates were also observed and appeared to be more than adequate. All of the cells were inspected along with the various specialized cells used for medical, violent or suicidal purposes. Recreational facilities were adequate. The main jail is severely over-crowded and always over the maximum number of inmates allowed. Another major problem is the lack of mental health attention given to those inmates with either mental deficiencies or drug problems. The mental health attention given to inmates is marginal. Another issue is the use of videotaping of the booking area and holding cells. Those areas are only video taped when there is a problem. The riot equipment was located in an equipment room off of the commander's office. In the event of an emergency situation access to this equipment needed by the correctional officers would be either slow or not accessed at all, putting those officers in much more dangerous situation than they are already in.

RECOMMENDATIONS:

The riot equipment at the main jail was not located in an area that would be easily accessible by employees in the event of an emergency situation. This equipment needs to be relocated so that it is made more accessible to employees in emergency situations.

The Sheriff's Department should review their policy on video taping within the main jail. Even though it would be more expensive, they should videotape the facility 24 hours a day.

The communications between the jail and county mental health facility is very poor. The Sheriff's Department needs to establish much better communications along with training the shift supervisors in dealing with severe mental health issues of some inmates. This would include training in the various laws, procedures and court proceedings dealing with mental health of those inmates. For example, when an inmate can be forcibly

medicated, then an inmate should be relocated to a mental health facility as well as establishing a procedure for the transportation and security of those inmates and the location(s) the inmates could be relocated to. The Grand Jury realizes this is a very complex and technical subject, as well as expensive, but there are security and safety issues for the correctional officers and other inmates, as well as liability issues for the County.

The Sheriff's Department needs to deal with the severe overcrowding at the main jail. They need to expand the jail, build another facility, and contract to a private agency or possibly enter into a contract with surrounding counties and equally staffed by employees from those counties. This could be financed by State and/or Federal grants with an incentive or possibly holding State or Federal inmates, either temporarily or permanently.

**DOS PALOS POLICE DEPARTMENT
ASSAULT
GRAND JURY COMPLAINT
#05-06-01**

COMPLAINT:

Received complaint from citizen who alleged that a member of the Dos Palos Police Department had assaulted her.

METHOD OF INVESTIGATION:

After many attempts, the Grand Jury committee was unable to locate the complainant.

FINDINGS:

There were no records found or furnished to support the complainant's written account of the case.

RECOMMENDATION:

Case was turned over to the Merced County District Attorney's Office.

**JOHN LATORRACA CORRECTIONAL FACILITY
INMATES SLEEPING ON FLOOR
GRAND JURY COMPLAINT
#05-06-02**

COMPLAINT:

The Grand Jury received a complaint stating that inmates were sleeping on cement floors without sheets, blankets and beds due to the overcrowding of the facility at the John Latorraca Correctional Facility. Complainant also stated that the meals were being cut in half due to the overcrowding.

METHOD OF INVESTIGATION:

The Grand Jury made an unannounced visit on September 14, 2005 to the John Latorraca Correctional Facility to follow up on the complaint.

The Sergeant on duty guided the Grand Jury on a tour of the correctional facility, where they interviewed personnel from the food service department and observed the preparation of the evening meal.

The Grand Jury interviewed both male and female inmates of the facility.

The Sergeant on duty gave a quick oral overview of the operations of the correctional facility.

FINDINGS:

The ratio of correctional officers to inmates remains critically low. Currently, on each shift, there are eight correctional officers on the grounds. The facility has a maximum of 606 beds for inmates. On the date of the tour, there were 629 inmates at the facility, with 83% males and 17% females. A large percentage of these inmates are charged with serious and violent felonies. The low staffing levels are at issue due to the danger to both the staff and the inmates.

There was a particular shortage of female correctional officers. There must be a female officer on duty at all times.

There is excessive overtime due to the staff shortages. The morale of the correctional officers is also affected due to the high stress of their position.

The facility operates at maximum capacity throughout the year. Annually, hundreds of inmates are released prematurely to allow for incoming inmates to be housed. The former library on site has been converted into a dorm to house more inmates.

The correctional officers are not adequately trained, prepared or equipped to care for inmates with varying degrees of mental illness.

There are no correctional officers in the kitchen while the inmates are preparing meals. The civilian cook oversees the meal preparation and is not qualified to supervise inmates who have access to knives and other dangerous implements.

The correctional facility serves two hot meals and one cold meal to each inmate each day. The Grand Jury observed the evening meal preparation. The meal was adequately prepared, hot and contained more than a sufficient amount of food. The kitchen was very clean and well organized.

The Grand Jury inspected each dorm of the facility. In each dorm there were shortages of beds with inmates sleeping on mattresses on the floor. They each were supplied with sheets, pillows and blankets. Female inmates complained of delays in making medical appointments after their initial request.

RECOMMENDATION:

The correctional officer staffing remains a high priority. Recruitment of correctional officers, especially female officers, must be done, to reduce the burden on the overworked staff. This would also alleviate the safety issue from the ratio of correctional officers to inmates that the facility maintains. With the current growth of the county, this is an immediate necessity.

Both the Merced County Board of Supervisors and the Sheriff find a source to acquire additional funding for additional buildings to house the inmates, as well as the addition of correctional officers.

COMMENDATIONS:

The staff of the John Latorraca Correctional Facility was very professional and showed concern for the existing problems at the facility. They should be commended for working under such stressful and hazardous conditions.

**ATWATER POLICE DEPARTMENT
MERCED COUNTY PUBLIC DEFENDER
MERCED COUNTY DISTRICT ATTORNEY'S OFFICE
MERCED COUNTY SUPERIOR COURT**

**CONDUCT OF POLICE OFFICERS
GRAND JURY COMPLAINT
#05-06-03**

COMPLAINT:

A complaint was received regarding the conduct of an Atwater Police Officer regarding an auto accident, which occurred in the City of Atwater.

METHOD OF INVESTIGATION:

The Grand Jury was unable to contact complainant.

FINDINGS:

Investigation was closed due to the inability to contact complainant and the lack of information.

RECOMMENDATION:

None

**CITY OF ATWATER PUBLIC WORKS DEPARTMENT
OVERTIME FOR TEMPORARY EMPLOYEES
GRAND JURY COMPLAINT
#05-06-04**

COMPLAINT:

The Grand Jury received a complaint regarding city policies pertaining to overtime and vacation for temporary employees.

The Grand Jury found no violation.

No further action was taken.

**A WOMAN'S PLACE
VIOLATION OF CHILD LABOR LAWS
ILLEGAL USE OF STATE AND FEDERAL FUNDS
GRAND JURY COMPLAINT
#05-06-05**

COMPLAINT:

A complaint was filed with the Grand Jury alleging criminal conduct on the part of the Executive Director of A Woman's Place. The complainant alleged the Executive Director engaged in:

1. Hiring a 15 year old to work on the computers.
2. Terminating an employee for reporting "Child Porn" on the agency computers.
3. Misuse of State and Federal funds.
4. Misuse of credit card.

METHOD OF INVESTIGATION:

The Grand Jury first considered if the Agency was appropriately under the purview of the Grand Jury. We determined that since the Agency received Government funds, that they were properly under our jurisdiction.

1. Our investigation of all governing regulations found no violation of child labor laws.
2. The Agency took action to lay off four (4) employees at the time. Included in the complainant's packet is a response from the attorney referencing a letter provided indicating that a decision was made to downsize. The agency was to be reduced by 4 employees.
3. There were no specific allegations of misuse of Government Funds. The complainant only indicated that there was misconduct, but did not identify what the misconduct was. The committee was unable to follow-up on this complaint.
4. An allegation that the Director used a friend's credit card. The card was used with permission. There did not appear to be a violation.

FINDINGS:

There does not appear to be any criminal misconduct revealed in any of the specific complaints and in fact it appears that the Director was in compliance with the regulations regarding work of the minor. The supporting documentation actually did not bear out any allegations. In fact, it served to support the actions of the Agency.

RECOMMENDATIONS: None

**MERCED COUNTY OFFICE OF EDUCATION
SPECIAL EDUCATION VIOLATIONS
GRAND JURY COMPLAINT
#05-06-06**

COMPLAINT:

A Complaint was filed against the Merced County Office of Education regarding special education violations.

RECOMMENDATION:

Since this facility is located and affiliated with Calaveras County Office of Education, the Grand Jury referred the complainant to the Calaveras Grand Jury.

No further action was taken.

**CITY OF DOS PALOS
POLICE DEPARTMENT
GRAND JURY COMPLAINT
#05-06-07**

COMPLAINT:

The Grand Jury received a complaint from a Dos Palos citizen stating that the Dos Palos Police Chief was driving a police vehicle without valid license plates on either the front or back of the vehicle.

METHOD OF INVESTIGATION:

The Grand Jury contacted the Dos Palos Chief of Police and was informed that the vehicle was a used 1997 Crown Victoria and was purchased from the Livingston Police Department. The vehicle had a temporary DMV tag, which has expired. There evidently was no follow-up from the City of Dos Palos on licensing the vehicle.

The police chief assured the Grand Jury that he would see that the 1997 Crown Victoria is properly licensed.

RECOMMENDATION:

All city vehicles whether they are exempt or not should have proper licensing. There should be one individual within the police department assigned with the task of insuring that all vehicles are properly licensed.

**Merced County Planning Department
Customer Service
Grand Jury Complaint 05-06-08**

Complaint

The grand jury conducted a routine review of the Merced County Planning Department and about the same time received a complaint from a citizen that the planning Department's provide extremely poor customer service. The complainant alleges that department personnel are quick to tell citizen what they cannot do, but fail to provide citizen with the information needed to get their projects approved in an expeditious manner.

Background

The complainant was issued a permit to upgrade a commercial rental building and the permit was subsequently cancelled because according to the county, the owner provided false information that the building was not a commercial building, but a residential building. As it turned out, during conversion to a computerized system the property was inadvertently coded as Ingle Family Residential (SFR) rather than commercial. In addition, the structure was leased out to tenants as a tavern and due to violations the license was revoked by the state. The planning department further decided that since the taverns license had been inactive for more than a year, the building would lose its non-conforming use status. The complainant appealed the decision to the Merced County Planning Commission and the Commission decided to overturn the staff decision. Even after the decision by the Planning Commission, the department refused to issue the permit and it required high-level political and administrative involvement to finally obtain the permit.

Method of Investigation

1/11/2006. Interviewed the Assistant Director of the Merced County Planning Department.

4/5/2006. Interviewed the complainant.

Documentation

Reviewed the agenda of the Merced County Planning Commission and listened to the audio of the June 9, 2004 Planning Commission hearing on the appeal to the commission.

Findings

The Planning Departments conversion of paper records to a computer system was apparently one of the root causes of the problem. By using the wrong code of Single

Family Residential (SFR) for a commercial building that was Grand fathered in after zoning code changes, the planning staff and the code enforcement officer relied exclusively on the computerized system rather than tracing back previous records that should have indicated that the building was not residential and had in fact been used as a tavern for a long time. There was an additional issue related to a parcel of land that is on long-term lease to Merced Irrigation District (MID) as a field office on which the property taxes that were to be paid by M.I.D. were not current. The planning departments decision to not issue permits because the California Alcoholic Beverage Control (ABC) Board revoked the permit was apparently in error because the permit was to the tenant, not the property owner, and as such should not have been a reason to revoke the grand-father clause as a non-conforming use of the property. The refusal to issue the permit following the Planning commission decision was also in error the yard behind the tavern that was used for smoking was part of the tavern and not an expanded use as determined by planning staff. It was also very clear that there was a great deal of frustration on the part of the property owner with the lack of customer-oriented service on the part of the planning department and it was equally clear that the planning department staff resented the property owners questioning their decisions and the Planning Commission overturning the staff decision further compounded this problem. The Grand Jury believes that the Planning Director was backing his staff at all cost and that it required involvement by the Planning Commission, high-level administrative officers and political pressure to resolve the issues. It is not the function of the Merced County Planning Department to obstruct the legitimate use of commercial property and the department should facilitate the legitimate use and not obstruct it. The County Planning Department is an important part of the economic development of the county, and the department must facilitate the economic development of the county through an efficient and effective program of providing information to the citizen of the county.

Recommendations

The Grand Jury recommends that the Director of the Merced County Planning Department implements a customer oriented training program for all staff.

The Director must also implement a program to ensure that computerized records accurately reflect the status of property in the county.

The County Administrator and the Board of Supervisors must ensure that the Planning Department provides customer oriented services to facilitate economic development in the county.

**MERCED COLLEGE OFFICE OF INSTRUCTION
IMPROPER HIRING
GRAND JURY COMPLAINT
#05-06-09**

COMPLAINT:

The Grand Jury received a complaint alleging improper hiring practices at Merced Community College.

The 2004-2005 Grand Jury, due to time constraints referred this case to the 2005-2006 Grand Jury.

The 2005-2006 Grand Jury reviewed the case and declined to accept it.

**MERCED COLLEGE PURCHASING
PURCHASING PRACTICES
GRAND JURY COMPLAINT
#05-06-10**

COMPLAINT:

The Grand Jury received a complaint alleging improper purchasing practices at Merced Community College.

The 2004-2005 Grand Jury, due to time constraints referred this case to the 2005-2006 Grand Jury.

The 2005-2006 Grand Jury reviewed the case and declined to accept it.

**MERCED COUNTY MENTAL HEALTH
FACILITY CONCERN
GRAND JURY COMPLAINT
#05-06-11**

COMPLAINT:

The Grand Jury received a complaint from an inmate at the John Latorraca Correctional Facility.

Due to the fact that the inmate was being held until she could be transferred to a State Correctional Facility, it was impossible to understand the reason for the complaint.

METHOD OF INVESTIGATION:

The Grand Jury visited with the complainant at the correctional facility. Complainant was unable to make clear the basis for her complaint.

Grand Jury questioned why this person was being held at the correctional facility when she should have been detained as an inpatient at the mental health facility.

FINDINGS:

Complainant was transferred to a State mental health facility for care.

RECOMMENDATION:

Appropriate mental health services are provided while individuals are incarcerated in County correctional facilities.

**Merced County Planning Department
Customer Service
Grand Jury Complaint 05-06-12**

Complaint

The grand jury conducted a routine review of the Merced County Planning Department and about the same time received a complaint from a citizen that the planning Department's provide extremely poor customer service. The complainant alleges that department personnel are quick to tell citizen what they cannot do, but fail to provide citizen with the information needed to get their projects approved in an expeditious manner.

Background

The complainant was issued a permit to upgrade a commercial rental building and the permit was subsequently cancelled because according to the county, the owner provided false information that the building was not a commercial building, but a residential building. As it turned out, during conversion to a computerized system the property was inadvertently coded as Ingle Family Residential (SFR) rather than commercial. In addition, the structure was leased out to tenants as a tavern and due to violations the license was revoked by the state. The planning department further decided that since the taverns license had been inactive for more than a year, the building would lose its non-conforming use status. The complainant appealed the decision to the Merced County Planning Commission and the Commission decided to overturn the staff decision. Even after the decision by the Planning Commission, the department refused to issue the permit and it required high-level political and administrative involvement to finally obtain the permit.

Method of Investigation

1/11/2006. Interviewed the Assistant Director of the Merced County Planning Department.

4/5/2006. Interviewed the complainant.

Documentation

Reviewed the agenda of the Merced County Planning Commission and listened to the audio of the June 9, 2004 Planning Commission hearing on the appeal to the commission.

Findings

The Planning Departments conversion of paper records to a computer system was apparently one of the root causes of the problem. By using the wrong code of Single Family Residential (SFR) for a commercial building that was Grand fathered in after zoning code changes, the planning staff and the code enforcement officer relied exclusively on the computerized system rather than tracing back previous records that

should have indicated that the building was not residential and had in fact been used as a tavern for a long time. There was an additional issue related to a parcel of land that is on long-term lease to Merced Irrigation District (MID) as a field office on which the property taxes that were to be paid by M.I.D. were not current. The planning departments decision to not issue permits because the California Alcoholic Beverage Control (ABC) Board revoked the permit was apparently in error because the permit was to the tenant, not the property owner, and as such should not have been a reason to revoke the grand-father clause as a non-conforming use of the property. The refusal to issue the permit following the Planning commission decision was also in error the yard behind the tavern that was used for smoking was part of the tavern and not an expanded use as determined by planning staff. It was also very clear that there was a great deal of frustration on the part of the property owner with the lack of customer-oriented service on the part of the planning department and it was equally clear that the planning department staff resented the property owners questioning their decisions and the Planning Commission overturning the staff decision further compounded this problem. The Grand Jury believes that the Planning Director was backing his staff at all cost and that it required involvement by the Planning Commission, high-level administrative officers and political pressure to resolve the issues. It is not the function of the Merced County Planning Department to obstruct the legitimate use of commercial property and the department should facilitate the legitimate use and not obstruct it. The County Planning Department is an important part of the economic development of the county, and the department must facilitate the economic development of the county through an efficient and effective program of providing information to the citizen of the county.

Recommendations

The Grand Jury recommends that the Director of the Merced County Planning Department implements a customer oriented training program for all staff.

The Director must also implement a program to ensure that computerized records accurately reflect the status of property in the county.

The County Administrator and the Board of Supervisors must ensure that the Planning Department provides customer oriented services to facilitate economic development in the county.

**Los Banos Cemetery District
Sale of Property
Grand Jury Complaint
05-06-13**

Complaint

The Grand Jury received a complaint that Board of Trustees of the Los Banos Cemetery District has announced its intention to sell the majority of the cemetery's reserve acreage to a local residential developer. The complainant believes that the developer is Greg Hostetler, but is not certain. The complainant believes that the cemetery is nearly full and it would be unwise to sell the land. In addition, the complainant believes that the County Board of Supervisors is not doing its job of providing adequate funding to the cemetery district. The basis for that opinion is there is huge difference in assessed valuation difference between Los Banos and Dos Palos cemetery districts. The complainant also states that the Los Banos Cemetery District Board Chairman has a conflict of interest in the sale of the land. The Grand Jury assigned the case to the County Administration Committee.

BACKGROUND:

The Los Banos cemetery consists of a total of 46 acres. The original cemetery consisted of 19 acres and approximately 27 acres was purchased in the 1970's as cemetery reserve. Estimates provided by the cemetery district state that the original 19 acres would provide enough burial space for the next 35 years and the additional seven acres that they propose to retain following the sale of 20 acres, for 65 more years. The decision by the Board of Trustees of the cemetery district to attempt to sell the surplus land to a developer is largely driven by existing budget problems and the rapidly increasing value of the land due to residential development in the area adjacent to the cemetery.

METHOD OF INVESTIGATION:

12/9/2005. Meeting with the complainant.

The following items were reviewed:

1. The complainant view of the sale of the land.
2. The financial situation of the cemetery district.
3. The number of burials at the cemetery.
4. The development pressure around the cemetery.
5. Potential conflict of interest.
6. Management of the cemetery.

12/14/2005. Meeting with the Merced County Auditor/Controller to discuss cemetery district finances

- 12/16/2005. Meeting with the Chairman of the Los Banos Cemetery District Board of Trustees to discuss cemetery district operations.
- 1/10/2006 attended a meeting of the Board of Trustees at the Los Banos city hall for a community forum on the sale of surplus land.

DOCUMENTATION:

Merced County budget documents related to the Los Banos cemetery district.

Budget documents for cemetery districts similar to the Los Banos cemetery district.

Government code related to the operation of cemetery districts in California.

FINDINGS:

The Merced County Board of Supervisors appoints the Los Banos Cemetery Board of Trustees. California Government Code Section 9042 gives the Board of Trustees the authority to dispose of surplus property after the district has offered the surplus property to other government entities. There is documentary evidence that other government entities were notified of the availability of the surplus property and declined to purchase the property. The question of whether or not to dispose of what the Board of Trustees considers property in surplus to the needs of the district is clearly a judgment call. The actions of the Board of Trustees are being reviewed and guided by Merced County counsel and an outside attorney.

The cemetery district financial problems are rooted in the issues related to California's Proposition 13 passed in 1978. Cemetery districts tax allocations are based on the average of three (3) fiscal years prior to the passage of Proposition 13, plus a 2 percent inflation increase. However, over the years, the State of California has reduced property tax allocations to counties and special districts in order to solve the state's budget problems. The property values in the cemetery districts do not enter into the current formula for district property tax allocations and are outside of the authority of the County Board of Supervisors. The comparison to the Dos Palos cemetery district tax allocation is also invalid due to the Dos Palos cemetery district being a multi-county district and the State of California, until recently, did not apply property tax reductions to multi-county districts. If and when the surplus property is sold, the district will place about 90 percent of the funds in an endowment fund and about 10 percent to upgrade the cemetery. Per state law, the principal of the endowment fund cannot be used, but the interest on the funds can be used for the maintenance of the cemetery.

The main source of revenue for the cemetery district is the burial fees charged by the district. However, even though the City of Los Banos has been growing rapidly, the number of internment has been less than 100 over the last few years and in the last few months the number has been around 60.

There are three primary reasons for this trend:

1. The number of cremations is increasing

2. The impact of the National Cemetery in Santa Nella.
3. Due to the number of people wishing to be buried in their original hometowns.

The area around the cemetery is in the path of development and even though the area is currently in the county, the area will soon be annexed to the City of Los Banos for residential development. The cemetery property is currently leased to farming interest; but the revenue from the property is approximately \$4,000.00. It is estimated that the sale of the land could be for as much as \$2,000,000. The funds placed in the endowment fund, could bring significant revenue to the cemetery district.

The allegation that the Board Chairman has a conflict of interest is not supported by the facts available. All but one of the Board members is in agreement that the district should explore the potential sale of the property and the negotiating committee consists of the Chairman, Vice Chairman and the Cemetery District Manager. The Chairman does own property in the immediate area that consists of his personal residence and approximately 3.5 acres.

The allegations of mismanagement of the cemetery are more difficult to ascertain. The current Board of Trustees was appointed in November of 2000 following intervention by the County Board of Supervisors, and has struggled to overcome the mismanagement that existed at the Cemetery district for years. The cemetery is badly in need of additional work in addition to what the current management and Board of Trustees have accomplished. Maintenance work is need since there is a significant problem with rodents and ground subsidence. Many grave stones need to be leveled and grave sites leveled. Review of the district budget shows that the cost of salaries and benefits as compared to the total budget shows that the Los Banos district spends less on salaries and benefits than other cemetery districts in the county.

The Board of Trustees held an informational meeting that had been properly noticed on January 10, 2006 to obtain community input on the potential sale of the surplus property. Approximately 25 citizens, including the District Supervisor and the County Auditor attended the meeting. It was interesting to note that the complainant was NOT in the audience. The Vice Chairman briefed the group on the management and financial problems faced by the district and what has been accomplished despite the funding reductions imposed by the state legislature. The District Supervisor also addressed the audience on the issues of the district. During the audience participation portion of the meeting about five citizens addressed the Board of Trustees and the audience was generally opposed to the sale of the land, but were also very understanding and supportive of the efforts of the Board of Trustees in their efforts to maintain a cemetery that the community could be proud of.

The Grand Jury finds that the Los Banos Cemetery District is in compliance with the laws and regulations that govern the district, and is properly guided by legal advise and assisted by the county as needed. Under state law the Board of Trustees has the authority to sell the surplus land if that is in the interest of the district.

RECOMMENDATIONS:

It is clear that community involvement in the operation of the district has been lacking and the citizen that attended the meeting would prefer that the Board of Trustees find ways to retain ownership of the land. The Grand Jury recommends that the Los Banos Cemetery District expand its outreach to the community so that if the sale of the surplus property does materialize, the district will have community support. In addition, the Board should explore additional alternatives short of selling the property. Engaging the political process to improve the funding of cemetery districts in general and Los Banos cemetery district in particular comes to mind. However, the chances of improving the funding appears to be low since increasing funding for one district is likely to mean a reduction in other areas.

As to the wisdom of selling the property, the Grand Jury must defer to the judgment of the Board of Trustees. Under ideal conditions it would be wise to hold on to the property, however given the financial restraints under which the district operates, the Board is required to make decisions in the best interest of the district.

Summary:

The Merced county Grand Jury received a complaint that the Los Banos Cemetery District was attempting to sell "reserve acreage to a developer" even though the cemetery was nearly full and with a rapidly growing community the land would be needed in the immediate future.

The grand Jury has completed its review of the issue and finds that the Cemetery District is exploring the sale of approximately 20 acres and plans to retain seven acres of the reserve property. Given the current rate of burials, the district has enough space for approximately 100 years. The property in question is in the path of development and will likely be annexed to the city of Los Banos soon.

The Grand Jury also finds that certain allegations of lack of financial support from the county are not based on facts since the county does not control funding of the district. Funding reductions imposed by the State have severely hampered the operations of the cemetery.

In addition, there was an allegation of conflict of interest on the part of a board member and the grand jury has found no evidence to support the allegation.

Based on input from the community during a public hearing it is clear that the community members present would prefer if the Board would find a way to retain the land for future use.

The grand Jury also finds that the District Board of Trustees operates the district in compliance with California law and that the Board of Trustees has the authority to sell the land if they find that in the best interest of the district.

**County of Merced CEO
Alleged Improper Land Purchase
Grand Jury Complaint
05-06-14
Original case # 04-05-20**

Complaint:

The complaint deals primarily with the purchase of land by the Housing Authority of Merced County (HAMC) for a labor camp in the Planada area and the involvement of the Merced County authorities. The complainant accuses the Merced County Executive Officer and the Executive Director of the Housing Authority of Merced County of subverting the land use planning process by shifting public money to purchase a parcel of land for a farm labor housing project in Planada, back and forth from the Housing Authority, to the non-profit Central Valley Coalition for Affordable Housing (CVCAH), to a private corporation, Pacific Holt Corporation, and that process allowed the purchase of the parcel of land by the County Executive Officer.

The documentation provided by the complainant contains a number of factual errors starting with the money loaned by the Housing Authority to the CVCHA to purchase the Planada parcel. Minutes provided by the complainant that documented the loan from the Housing Authority to CVCAH for \$500,000 to purchase the 24 acre parcel was not for that transaction, but for an entirely different project between the two organizations. This error sets the stage for the confusion about the actual purchase of the land and the price paid for the land.

The chronology of the purchase of Parcel number 053-145-024 according to the complainant:

The Housing Authority (HA) loaned \$500,000 to the Central Valley Coalition for Affordable Housing (CVCAH).

CVCAH purchases the parcel from J&J Family Trust for \$300,000

CVACH sold the parcel to HA for \$300,000

HA sold the parcel to Pacific Holt Corporation for \$509,000 based on the transfer tax.

Pacific Holt sold the parcel to the Merced County CEO for \$245,000.

Based on the above chronology, it made it appear that some unusual financial and land transactions had occurred. However, a thorough review of the documentation and interviews with all the parties involved painted a different picture.

Background

The community of Planada has been going through a process of updating the Planada Community Plan for a number of years and has involved many community groups and including the Planada Community Development Corporation (PCDC), the organization that employed the complainant. The PCDC is a non-profit organization involved in affordable housing and farm labor housing issues. The Housing Authority of Merced County is not associated with the Merced County Government, but is a separate agency funded by state and federal funding sources to provide affordable housing and farm labor housing in Merced County, including camps in the Planada area. The two camps related to this issue are the Felix Torres and the Planada Village labor camps. The Felix Torres camp, located near the parcel of land in question, was in deplorable condition and was denied further funding by the State of California. The result was that all the housing units were demolished and the camp is currently vacant land. The Planada Village camp is located at the intersection of Plainsburg Road and State Highway 140 and is used as year around housing for farm labor families.

The plan was to purchase the 24 Acre parcel near the Felix Torres camp to build what is know as a "Mega-Plex", which is a combination of permanent and temporary farm labor housing and close the Planada Village camp. The plan was to use a tax credit-funding plan to obtain the funding for the project and use the CVCAH as the tax credit partner. Under that plan the Housing Authority loaned the CVCAH \$300,000 and the property was purchased for that price.

The project was apparently not well coordinated with the State of California funding sources, because the State denied funding for the plan due to the fact that there were liens against the Planada Village camp that had to be paid before the Planada Village camp could be closed and the land on which the camp is located sold. When the tax credit plan failed, the Housing Authority purchased the parcel from the CVCAH for \$300,000 and but no money changed hands due to the fact that the loan to the CVACH came from the Housing Authority to begin with. The land purchase seems have been made with much planning or research that one would expect for a major project. The 24-acre parcel is located in a flood plane and would have required a lot of ill before housing units could have been build on the land. In addition, the parcel is located near the Planada sewer plant and the odor from the plant would also have caused issues in the future.

During this period Planada community groups became aware of the land purchase by the Housing Authority and significant opposition from the community groups developed. The housing Authority, after a number of meetings with the community groups, agreed to abandon the effort to use the 24-acre parcel for farm labor housing. The Planada Community Plan also designated the Planada Village location for future commercial development increasing the pressure on the Housing Authority to find a different location for the "Mega-Plex" housing project. Local real estate interest became aware that the Housing Authority was looking for a suitable location for the new housing project and informed the Pacific Holt Corporation of the Housing Authority's interest in acquiring land.

The Pacific Holt Corp. has plans for a large development in the area east of Plainsburg Road and north of State Highway 140. The project area for this development already contains an affordable housing project build by Bear Creek Development, but is not associated with the Housing Authority of Merced County. The Pacific Holt Corp. felt that by locating the “Mega-Plex” in the same area, it would enhance the chances of getting approval for their development project. After lengthy negotiations between the Pacific Holt Corp. and the Housing Authority it was decided that it was in the interest of both parties to exchange the 24-acre parcel on Gerard Avenue for a 21-acre parcel on Plainsburg Road just north of State Highway 140. The Housing Authority insisted that this would be an even swap since no additional funds were available. Pacific Holt Corp. agreed and the transaction was completed.

The documentation for the sale of the 21-acre parcel was listed as \$500,000, but that was because the owner of the 21-acre, which is part of a 410-acre parcel, would not agree to sell unless he was paid \$500,000 and Pacific Holt agreed to pay the \$500,000. The documentation of the purchase of the 21 acre parcel should have reflected the actual value of the exchange of the two parcels, \$300,000 and not what Pacific Holt actually paid the land owner (\$500,000) since that price included other considerations such as the option to purchase the 410 acres that would become part of the larger development project in the area. The error in the documentation made it look like Pacific Holt paid \$500,000 for the 21- acre parcel and exchanged that for the 24-acre parcel that was purchased by the Housing Authority for \$300,000. The documentation error further complicated the issue when the Merced County CEO purchased the 24-acre parcel for \$245,000 from Pacific Holt Corporation.

Method of Investigation

01/11/2006 Interview with Complainant.

The complainant was the Programs Director for the Planada Community Development Corporation, a private non-profit organization involved in affordable housing and migrant housing issues. During the development of the Planada Community Plan, the complainant become involved in a controversy related to the location of the Felix Torres farm labor camp that under the new plan would be relocated outside the growth limits of the Planada Development plan. Due to his activism on the issue, he became generally perceived as an opponent of growth and was ultimately fired from his position at the Planada Community Development Corporation. When pressed on his attitude toward growth in the community he stated that he was for “slow growth”, but when pressed he did not fully explain his position. The primary reason for his opposition appears to have been the closing of the Felix Torres migrant labor camp. He also presented a number of petitions from Planada farm labor workers opposing the Planada Community Plan. However, his complaint deals primarily with the land transaction related to the labor camp issue and the involvement of the Merced County Housing Authority and others. There are two related lawsuits involved in this situation that are still in litigation and will not be investigated by the grand jury.

01/11/2006 Interview with Assistant Director, Merced County Planning Department.

The Assistant Planning Director verified the accuracy of the complainant's information related to the Planada Community Plan that was developed over a number of years with significant input from the community, including developer's interest. The district Board of Supervisors member was also deeply involved in the formulation of the plan.

01/11/2006 Visit with the Merced County Auditor/Controller

The grand jury committee obtained property records on parcel Number 053-145-024 from the Auditor/Controller to verify the information provided by the complainant.

01/11/2006 Visit with the Merced County Tax Assessor

The Grand Jury committee also obtained tax information on the sales prices related to the above parcel of land to verify the actual sales price of the parcel.

01/17/2006 Interview with Merced County Housing Authority Executive Director

The grand Jury committee requested that the Director explained the chain of events related to the Planada parcel purchased by the Coalition for Affordable Housing with a loan from the Housing Authority. The Director explained that he was not the Executive Director when that process was initiated, but he was generally familiar with the chain of events and has provided the grand jury all the documentation.

The plan was to use the 24-acre parcel to build a "Mega-Plex" farm labor camp consisting of both temporary and permanent farm labor housing as a replacement for the Felix Torres and Planada Village labor camps. The State had informed him verbally that the Felix Torres camp was to be closed and would no longer be funded by the state. The Housing Authority's previous Executive Director initiated the \$300,000 loan to the Coalition for Affordable Housing to purchase the land. After the property was purchased and during the development of the Planada Development Plan, significant community opposition to the plan developed and the HA ultimately agreed to look for a different location.

The HA informed local real estate interest that they were looking for a parcel of land in the Planada area. The result of that was that Pacific Holt Corporation made a proposal to the HA to swap the 24 acre parcel on Gerard Avenue for a 21 Acre parcel located on Plainsburg Road about one mile north of Highway 140 and just north of the Planada Village labor camp on Highway 140 and Plainsburg Road.

The HA Director also stated that sewer hook up for the "Mega-Plex" are available because the HA has 80 connections available from the closed Felix Torres camp and 47 that are currently in use at Planada Village. Sewer connections in Planada are a major issue due to the sewer plant being at capacity. After the "Mega-Plex is build, the plan is to close Planada Village labor camp.

02/10/2006 Interview with the Manager of Pacific Holt Corporation

The Pacific Holt Manager provided a chronology of the events leading up to the swap of the 24-acre parcel on Gerard for the 21-acre parcel between Pacific Holt and the Housing Authority. He explained that the company had no use for the 24-acre parcel and only agreed to the parcel swap to enhance the chances of having their major

development project approved. After the land swap transaction was completed, Pacific Holt Corporation sold the parcel to the Merced County CEO and his wife through ERA Stargate Reality for \$245,000.

Grand Jury members also questioned the Pacific Holt Manager about the involvement of a former Merced County Supervisor and he stated that Pacific Holt did have a two-month contract with the former County Supervisor. The contract was related to the former supervisors intimate knowledge of the Planada community and the efforts to develop the project on Highway 140 and Plainsburg Road. The former supervisor is a licensed real estate agent, but according to the Manager, was not involved in the sale of the parcel in question.

02/14/2006 Interview with Merced County CEO.

The Merced County CEO explained that he had been in the market for a relatively large parcel of land for some time to build a house for his family. Initially he had made an offer on a 100-acre parcel in the Le Grand area, but he was outbid and that deal did not materialize. He explained that since it was known in the real estate community that he was looking for a parcel of land, the real estate agent that was involved in the transaction between Pacific Holt and the Housing Authority put him in contact with ERA stargate Reality. The Merced County CEO made a bid on the parcel and a licensed appraiser hired by County Bank appraised the transaction. County Bank financed the purchase of the land, and Trans County Title Company did the title search work. The Merced County CEO has fully cooperated in the review of the land purchase and provided the grand jury with all the documentation related to the land purchase.

Findings

The Grand Jury does not agree with the complainant that the Merced County Executive Officer and the Executive Director of the Housing Authority of Merced County subverted the land use planning process by shifting public money to purchase a parcel of land for a farm labor housing project in Planada, back and forth from the Housing Authority, to the non-profit Central Valley Coalition for Affordable Housing (CVCAH), to Pacific Holt Corporation, and that those transactions ultimately allowed the parcel to be purchased by the County Executive Officer.

However, a number of errors in the documentation of the transactions contributed to the perception that something less than normal land purchasing transactions were being made. The problem started with the fact that the former Executive Director of the Merced County Housing Authority failed to obtain approval from the Housing Authority Board of Trustees to initiate the \$300,000 loan to the Central Valley Coalition for Affordable Housing for the purchase of land for the farm labor "Mega-Plex" and in addition, failed to obtain formal approval from the Board of Trustees for the purchase of the 24-acre parcel on Gerard Avenue in Planada from the Coalition for Affordable Housing after the original plan to build the "Mega-Plex" failed. The Housing Authority legal counsel who, in a letter to a community member, quoted an unrelated Housing Authority Board of Trustees Resolution for a loan of \$500,000 as being for the loan for the 24-acre parcel compounded the problem because that made it appear that the loan

was for the land purchase was \$500,000 rather than \$300,000. There is evidence in the Housing Authority records that the Board of Trustees was informed of the transactions, but no formal approval authority exist.

Additional documentation problems exist with the swap of the 24-acre parcel for the 21-acre parcel. The documentation makes it look like the price for the 21-acre parcel was \$500,000 while in reality, Pacific Holt Corporation paid the land owner of the 21-acre parcel the \$500,000 to separate the 21-acre from the 410-acre parcel that Pacific Holt wanted for the future development project in the area. The title company should have insisted that value of the 21-acre parcel was listed on the transfer documents and if Pacific Holt needed to compensate the owner of the 410-acre parcel, Pacific Holt should have done so as a separate financial transaction.

There is no evidence that the Merced County CEO was involved or even knew about the transactions between the Housing Authority of Merced County and the Central Valley Coalition for Affordable Housing that resulted in the purchase of the 24-acre parcel in Planada and the subsequent swap for the 21-acre parcel on Plainsburg Road.

Recommendations

The Board of Trustees of the Housing Authority of Merced County should provide greater oversight of the Executive Director and should establish formal policies that specify the authority of the Executive Director. In this particular case the former Executive Director was allowed to make a large loan to non-profit organization and purchase land without formal approval of the Board of Trustees.

Even though it appears that the Board of Trustees knew about the transactions, official records do not reflect that the Board of Trustees approved the transactions. In addition, legal counsel for the Housing Authority should provide the Board of Trustees with procedural advise and when writing letters to interested parties provided accurate information.

The Board of Trustees should insist the records of the loan and subsequent purchase of the 24-acre parcel clearly establish the approval of the Board. The current Executive Director has stated that he will do so during the April 2006 meeting of the Board of Trustees.

Trans County Title Company should ensure that land purchase records accurately reflect the true value of the transaction and should be free from extraneous consideration. Trans County Title and the Housing Authority of Merced County should work with all parties involved to correct the record.

Even though the Merced County CEO purchased the land in a private transaction that did not involve his official duties, a close review of the history of the ownership of the parcel should have raised concerns that the purchase of the land by a public official in a community that was engaged in a controversial new General Plan Development could be wrongly perceived and should be avoided.

Summary of Case # 05-06-14

The allegations that the Merced County CEO and the Executive Director of the Housing Authority of Merced County subverted the land use planning process by shifting public funds between various entities and that the shifting of funds ultimately allowed the CEO to purchase the land are not supported by the facts.

Failure to follow proper approval procedures and documentation errors by the Housing Authority greatly contributed to the perception that unusual transactions that taken place. If the Housing Authority Board of Trustees had provided greater oversight of the Executive Director and passed Resolutions authorizing the \$300,000 loan to a non-profit affordable housing organization and subsequent purchase of the land for a farm labor housing project, the issue could have been avoided.

The farm labor housing project planned in Planada failed when the State of California refused to remove a lien from the Planada Village farm labor housing project that was to be closed and made part of the new project on the land purchased by the Housing Authority. When Planada community opposition developed over the location of the farm labor housing project, the Housing Authority agreed to look for a new location. The result was that the Housing Authority swapped the original 24-acre parcel for a 21-acre parcel North of Highway 140 for the same price as the housing Authority paid for the original 24-acre parcel.

The documentation for the parcel swap also suffered from documentation issues when the title company allowed the total amount paid to the landowner to include other considerations in the documented cost of the 21-acre parcel. The error made it appear that the cost of the 21-acre parcel was \$500,000 rather than the \$300,000, which was the value of the 24-acre.

The Merced County CEO should have reviewed the history of the land transactions before purchasing the parcel, and noticed that the potential for perceived conflict of interest existed even though the grand jury agrees that no conflict exist.

**MERCED COUNTY HUMAN SERVICES AGENCY
UNFAIR HIRING PRACTICES
GRAND JURY COMPLAINT
#05-06-15**

COMPLAINT:

The Grand Jury received an anonymous complaint that alleges that in October 2005, candidates for a Supervising Social Worker II position were given an unfair advantage by being provided the answers to the Merit System oral panel. The complaint alleges that a Program Administrator provided the information to one of the candidates.

METHOD OF INVESTIGATION:

The Grand Jury reviewed the documentation provided by the Human Services Agency and the review by the State Merit System agency.

The Grand Jury reviewed a report to the County Administrator.

The Grand Jury reviewed an email from State Merit System.

FINDINGS:

The Grand Jury determined that the actions by both the Human Services Agency and State Merit System were appropriate and as a result the Grand Jury has declined to further review the allegation.

RECOMMENDATION:

No further action is necessary.

**MERCED COUNTY SHERIFF'S DEPARTMENT
GRAND JURY COMPLAINT
#05-06-16**

COMPLAINT

The Grand Jury received a complaint alleging that \$8000 worth of riot equipment was ordered and delivered to the John Latorraca Correctional Facility. Some of this equipment was designated for the main jail. This equipment was not delivered to the main jail on 700 West 22nd Street. The complainant alleges the equipment was not made available to correctional officers for emergency uses and the equipment was dispersed to other departments within the Sheriff's Department.

METHOD OF INVESTIGATION:

- 02/08/06 A Grand Jury Committee met with main jail commander and inspected the main jail at 700 West 22nd Street.
- 02/14/06 A Grand Jury Committee met with the John Latorraca Correctional Facility commander and inspected the facility.

DOCUMENTATION:

The complainant provided an inventory list of equipment with the complaint.

FINDINGS:

At the main jail on 700 West 22nd Street, the Grand Jury committee was shown a storage facility room near the commander's office that partially contained the riot equipment that had been ordered and delivered.

At the John Latorraca facility, the Grand Jury committee was shown a locked room between the administration building and the dormitories that contained the remaining riot equipment.

The riot equipment consisted primarily of helmets, knee, forearm and elbow pads, and protective vests were all accounted for with the exception of the protective vests, which were determined to be no longer serviceable.

RECOMMENDATIONS:

The riot equipment at the John Latorraca facility was not located in an area that would be easily accessible by employees in the event of an emergency situation. This equipment needs to be updated and relocated to an area that is more easily accessible to employees in emergency situations for their protection.

**Mining Operations On The Kelsey Ranch
Snelling Rock Quarry Flooding Problem
Grand Jury Complaint
#05-06-17**

Complaint

The grand jury received a complaint from a citizen that a nearby mining operation was flooding their property and that repeated calls to their District Supervisor were unanswered. The complainant and his neighbor's belief that the aggregate mining operation on the "Kelsey Ranch" is causing flooding on their property.

Background

Members of the grand jury visited the property and verified that there is standing water on his and the neighboring properties as stated in the complaint. The problem of the flooding has existed for sometime, since there was a layer of algae on the water and frogs could be heard from the immediate vicinity of the property. In addition, mosquitoes were observed coming from the property.

The complainant provided the grand jury with a compact disk (CD) that contains Arial photo's of the Kelsey property showing large areas of standing water that according to the complainant did not exist prior to the resumption of mining operations on the Kelsey property. The complainant property is approximately .4 miles west of the mining operation. There is also evidence that water has been diverted from a Merced Irrigation District (MID) canal for the use in washing aggregate on the Kelsey property. However, at the time of the grand jury visit the water was shut off at the source.

The mining operation was suspended starting December 22, 2005 for the Christmas holidays and are still suspended on this day January 10, 2006 due to a labor dispute. The complainant has noted that the water level has been going down since that time. The grand jury observed about one inch of water in the box containing the sprinkler valves for the property, but the sprinklers have not been used since the flooding started.

The grand jury also obtained a copy of Conditional Use Permit No. 3668 issued September 22, 1993. The permit allows the removal of 810,000 tons of aggregate over a six-year period.

Method of Investigation

1/10/2006 visited the property at 6676 Merced Falls Rd., and interviewed the complainant.

1/11/2006 interviewed the Assistant Director of the Merced County Planning Department.

Documentation

Reviewed Conditional Use Permit 3668 that allows the removal of aggregate from the property.

Reviewed a Compact Disk (CD) that contained pictures and documents related to the issue.

Findings

The Assistant Planning Department Director was very familiar with the issues related to the mining operation on the Kelsey property and the Planning Department staff has been actively involved with the complainant and his neighbors. The mining operation has exceeded the maximum amount of aggregate removal as per the permit. However, he explained the issue of the mining operation exceeding the authorized time frames of the permit. Per state law the total removal of the aggregate is more important than the length of the permit. The mining operation had been inactive for a period of year due to low demand and mining companies suspending or terminating operations on the site.

The planning department has drafted a letter to the permit holder to suspend operations. The stop order was issued on Friday January 13, 2005. The order requires the issuance of a new permit and the new permit, if requested, will address the issues related to the mining operations.

The complainant also told the grand jury members about his inability to get Supervisor Kelsey to respond to his inquires about the cause of the flooding. The Supervisor has an obvious conflict of interest since the alleged cause of the flooding is on her family property. However, that does not relieve a public official from responding to issues raised by constituents, but in this case, due to the conflict of interest, Supervisor Kelsey told the compliant to contact Supervisor Pedrozo. However, repeated calls to the Supervisor remain unanswered.

Recommendations

The Grand Jury agrees that issuing a stop order to the permit holder is an appropriate response to the flooding issues on the complainant properties. The new permit would give all parties involved time to address and resolve the problems before resumption of mining operations on the site. However, there remains a large amount of water on the mining site and it will take a long time for all that water to drain into the soil. The permit holder and the mining company should find a way to dispose of the excess water on the mining site.

The Grand Jury also recommends that elected officials be more responsive to the needs of their constituents by communicating what is being done to address their concerns. Supervisor Kelsey requested that Supervisor Pedrozo respond to the complainant and Supervisor Pedrozo did look into the issue by communicating with the Planning Department staff, but failed to return the calls from the complainant. Had the Supervisor returned the calls from the complainant, the need for grand jury involvement could have been avoided.

**DELHI UNIFIED SCHOOL BOARD OF TRUSTEES
UNIFIED SCHOOL BOARD ALLEGATION (S) AGAINST DELHI OF
POSSIBLE VIOLATION (S) OF THE RALPH M. BROWN ACT
Grand Jury Case # 05-06-18**

Complaint:

Complainant alleged that on October 25, 2005 five (5) members (constituting a quorum) of the Delhi Unified School District Board of Trustees were in violation of the Brown Act, Government Code Section 54950 by meeting in a local restaurant a few hours prior to a publicly scheduled Special meeting.

Applicable sections of the Brown Act:

California Government Code section 54950

Guarantees the public's right to attend and participate in open forum meetings of local legislative bodies unless designated in the posting and/or notification of an agenda under "Special Meeting".

California Government Code Section 54952.2

"Any congregation of a majority of the members of a legislative body in the same time and place" is a "meeting" subject to the Brown Act if members "hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction" of the board. This section also defines this as a quorum.

California Government Code Section 54946

Special meetings: Twenty-four hour notice must be provided to members of legislative body and media outlets including brief general description of matters to be considered or discussed.

California Government Code Section 54954.2 (a)

Regular meetings: At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public.

California Government Code Section 54959

Sanctions: The district attorney may seek misdemeanor penalties against a member of a body who attends a meeting where action is taken in violation of the Act, and where the member intend to deprive the public information which the member knew or has reason to know the public was entitled to receive.

Background

The Merced County Grand Jury 2005-2006 received a complaint alleging a possible violation of the Brown Act by Delhi Unified School District Board of Trustees occurring October 25, 2005 around 4:00 – 4:30 PM. That same date, members were scheduled to meet for a Special meeting at 6:30 PM.

October 11, 2005 Trustees met for a Board Meeting (agenda was not published for the public). The agenda and minutes, later obtained from the board's district office, does not designate this meeting as special, but does include a "closed session" for "Public Employee Performance Evaluation – Principal". No report of action was later disclosed in the minutes. Complainant allegedly was denied a copy of this meeting. Nothing filed on website.

October 25, 2005 At approximately 10:00 AM, complainant requested the "Special Meeting," scheduled for 6:30 PM, be moved from a "closed session" to an "open session".

October 25, 2005 At approximately 4:30 PM five trustees (quorum) met at a local eating establishment. Upon arriving at the restaurant, they asked to be placed in a side room. Although this area is visible to the general public through a large glass window, it is separate from the main eating area and often used for meetings and/or private gatherings.

October 25, 2005 At 6:30 PM, the Delhi Unified School District Board of Trustees met for a meeting. This meeting, originally designated an "Executive Session" on the agenda, was later termed "Special Meeting" in the minutes. Actions included a resolution releasing and reassigning the complainant to another position in the district. This would result in a loss of stature and authority forfeiting his administrative responsibility at a significant reduction of income.

October 26, 2005 The day following the board action, approximately 800 students and teachers publicly protested the action by walking out of their classrooms. Parents subsequently complained to school officials that the trustees violated their positions when they "secretly met" prior to the public meeting.

November 8, 2005 Special Meeting (agenda not made public), of Board included a closed session. Minutes indicate this meeting as an "Executive Session" and include, "The District has received correspondence from an individual alleging that the "District violated the Brown Act (California Open Meetings Law) at its October 25, 2005 meeting." Minutes also reflect a motion (6 ayes, 1 absent) that "no violation of the Brown Act occurred at its October 25, 2005 meeting and so there is no cause to cure and correct." Note: although there was no agenda previously posted, a copy later showed the board actually met ½ hour prior to agenda time.

November 16, 2005 Complainant contacts the Merced County Sheriff's Department regarding a possible violation of the Brown Act following an independent "investigation" by the complainant in response to parents who complained the board met "in secret" prior to the official meeting. The deputy, taking the report, not familiar with the Brown

Act, refers information to his supervisor and the Merced County District Attorney's office for direction.

November 22, 2005 Complainant's letter to the board president accuses trustees of violating the Brown Act on October 25, 2005 by not posting a public notice or agenda and members meeting in "secret" prior to the official meeting. This letter also mentions a formal complaint, dated November 9, 2005, to the board regarding the District Superintendent. It refers to an August 23, 2005 board meeting where the complainant and another school official addressed the board regarding "policy violations made by the Superintendent". Finally, the complainant questioned the board not responding to the formal complaint of the August meeting.

December 13, 2005 Board met. Agenda lists this as a "special meeting". During adjournment to "closed session," minutes reflect a conference with legal counsel regarding a "violation of the Brown Act". Trustees voted that "no violation of the Brown Act occurred and there was not reason to cure and correct". Minutes were also approved by the Board and signed by the Superintendent, during this meeting for the November 8, 2005 meeting, now listed as a "regular meeting". Note: November 8, 2005 minutes also include the same information regarding a vote regarding the Brown Act. The action of the November 8, 2005 *meeting was in response to a letter dated 14 days following the actual date of the letter.*

December 14, 2005 Letter from the Superintendent to complainant states, "...during closed portion of the Board of Trustees regular meeting on December 13, 2005...Trustees determined there was no violation of the Brown Act and there is not a need to cure and correct."

January 7, 2006 Minutes reflect, "study session" with district's legal counsel (Todd Goluba) for training regarding the Brown Act and Robert's Rules of Order.

January 20, 2006 Merced Grand Jury receives complaint, dated January 18, 2005, from complainant charging the Delhi District Unified School District with violating the Brown Act.

January 27, 2006 Merced County Sheriff's official report of November 16, 2005 incident regarding October 25, 2005 alleged violations. Report referred to the Merced County District Attorney's office. Note: Subsequent phone call to the District Attorney's office regarding status of report, the D.A.'s office advised matter was referred to the grand jury.

March 30, 2006 The complaint was received by the Merced County grand Jury and assigned to the Health, Education and Welfare subcommittee. Contacted complainant to inform him an investigation to his complaint has ensued.

Method of Investigation

From April 4, 2006 through April 27, 2006, the Health, Education and Welfare Committee for the Grand Jury conducted an investigation.

The sub committee interviewed members of the Board of Trustees regarding the alleged Brown Act violations.

Members of the Delhi board were difficult to reach and required repeated messages left on both residential and cell phones.

One member, reached after leaving repeated messages, was scheduled for an interview. However, she never showed for or responded to messages left following the scheduled interview. The sub-committee has been unable to reschedule the interview due to the lack of response by the board member.

Documentation

The Grand Jury reviewed minutes from various meetings conducted by the school board during the period of the alleged violations.

Findings

The Grand Jury finds, that based on our research and a total of twelve (12) interviews, that members of the Delhi Unified School District Board of Trustees violated the Brown Act by having a quorum of Board members present at a local restaurant immediately prior to a *Special* meeting called to discuss the performance of a school principal.

Witnesses identified five trustee members who met at a restaurant prior to the scheduled meeting.

During interviews, trustees gave contradictory statements regarding their procedures, training, and events leading to and including the alleged violation.

During interviews board members were asked the purpose and/or role of the Brown Act and the Board. The majority stated that the Brown Act was more of a parliamentary process rather than a law ensuring open, fair, and accessible government at all times.

In addition, the majority stated the Board worked for the superintendent rather than acting as a governing body that actually hired the superintendent

Responses varied regarding Brown Act training for the Board of Trustees. One member stated the Merced County Office of Education conducted the most recent training concerning the Brown Act. She said it was held in Merced for the entire county. Another member stated the district's legal counsel wanted to clarify with members the Brown Act requirement regarding going into a closed session, within an open meeting format.

Although each trustee denied gathering prior to the official October 25, 2005 meeting, two witnesses identified trustees from individual pictures of board as those being present. Three trustees, not only denied being there that date, they also stated they had not been in the establishment for one to five years for any reason.

Recommendations

Recommendation 1 The Board of Trustees publicly acknowledges to the citizens of the Delhi district that the actions of the five participating members violated the Brown Act.

Recommendation 2 The Merced County District Attorney meet with the Delhi Unified School District Board of Trustees regarding the purpose the Brown Act as it pertains to the conduct of Board meetings and Roberts Rules of Order procedures.

Recommendation 3 Official minutes should include a chain of accountability and accuracy by including name and/or initials of person actually recording and typing records.

Recommendation 4 Public records, including website, should be revised to update information including agendas, meetings, and notification of meeting time and place.

Recommendation 5 Trustees follow the same format, using Brown Act and Roberts Rules guidelines, to categorize meetings, have consistent agenda formats, and accurate minutes, all approved in a timely manner.

Recommendation 6 Board and Superintendent meet to review and discuss relationship and/or duties as defined by law.

Recommendation 7 Actions taken at October 25, 2005 meeting (originally closed, then opened by request), be null & void

Recommendation 8 This matter is referred to the Merced County District Attorney for possible action.

Recommendation 9 During this investigation the complainant filed another complaint, this time naming the superintendent. Because of time constraints, it is advised the new complaint (Grand Jury # 05-06-25) be forwarded to the next grand jury (2006-2007) for further investigation. It is also recommended that this and subsequent reports and actions related to both complaints and/or allegations be included and referenced to each other for clarification and appropriate action.

**CITY OF ATWATER
COUNCIL BENEFITS
GRAND JURY COMPLAINT
#05-06-19**

COMPLAINT:

The complaint concerns the recent action taken March of 2005 to allow Atwater City Council Members and their covered dependents to continue on the Health Plan at their own expense after they no longer serve on the Council. The complainant was concerned that the addition of aged non-employees would affect the pool of participants and thus create a liability for the City by increasing the cost.

BACKGROUND:

The City of Atwater participates in a State Wide Health Plan under the Public Employees Plan. The pool of covered lives consists of over 1.4 million participants. In March of 2005, the City Manager set forth a Resolution 2018-05 authorizing retention of benefits to City Council members. The background identified that this was already a practice of Atwater. The resolution was to formalize an existing practice.

METHOD OF INVESTIGATION:

4/12/06 Interview with complainant.

The complainant had two concerns. The City had no authority to grant former Council member's benefits of any kind into perpetuity after they leave office.

That contributions to the employee medical plans will be increased based on the adverse affect of the age retirees on the insurance pool as a whole, thus becoming an increase to the city. He had no complaint regarding the procedure. His sole concern appeared to be the financial impact on the City.

4/12/06 Interview with Atwater City Manager and the Atwater Director of Finance.

The City Manager indicated the practice had been in effect prior to his tenure. There was no resolution in place authorizing this practice. He offered resolution 2018-05 to the Atwater City Council on March 14, 2005 for approval. This action did not create a change in policy or practice but rather a transparency to the community of the practice.

The committee reviewed:

The Resolution 2018-05 I, indicated that there was no fiscal impact to the City based on this action and that the health benefits for the retiree would not be paid by the City of Atwater but rather 100% by the participant.

California Government Code 365.16(a) allows the City Council to be provided with the same benefits currently provided to the employees.

The Cal Pers Health Benefit Summary, 2006.

The cost of monthly premiums to contracting agencies.

ANALYSIS:

In reviewing the California Government Code 36516(a) the committee determined that the Atwater City Council was within their rights to grant this benefit to the council at retirement because it did not exceed the benefits allowed to active employees. The only concern that the committee noted was that there was no five-year service requirement contained in the Resolution 2018-05. However, we clearly did not find any violation.

The committee found that based on the size of the health participant pool (CAL PERS) and the fact that the former council members are responsible and required to pay 100% of the contribution, there is no financial impact to the City of Atwater.

FINDINGS:

The City of Atwater had the authority under California Government Code 365.16(a) to enact this resolution and there is no adverse fiscal impact to the City of Atwater

RECOMMENDATION:

None

**MERCED POLICE DEPARTMENT
ALLEGED MISCONDUCT OF OFFICERS
GRAND JURY COMPLAINT
#05-06-20**

COMPLAINT:

The Grand Jury received a complaint from a Merced resident stating that he was not allowed cultivating or using medicinal marijuana in his residence.

FINDINGS:

There is no local ordinance or law that allows patients to cultivate and use medicinal marijuana for health conditions.

The Merced Police Department has every right to enforce the laws relating to marijuana use and every other illegal drug.

RECOMMENDATIONS:

None

**GUSTINE POLICE DEPARTMENT
POLICE OFFICER MISCONDUCT
GRAND JURY COMPLAINT
#05-06-21**

COMPLAINT:

The Grand Jury received a complaint regarding invasion of privacy, harassment and slander.

NOTE:

Because this involves an under-age female juvenile and a parolee this complaint has been referred to the Merced County District Attorney's Office.

RECOMMENDATIONS:

Refer to the Merced County District Attorney.

**MERCED COUNTY PROBATION DEPARTMENT
LOS BANOS POLICE DEPARTMENT
GRAND JURY COMPLAINT
#05-06-22**

COMPLAINT:

The complainant stated that on February 25, 2006, five Merced County Probation Officers and four Los Banos Police Officers entered her residence and conducted a probation search. The officers kicked in a door, cut cords to a surveillance camera and broke a cell phone. The complainant alleges that the officers had no right to enter her residence, search the premises and damage her property. The officers were only authorized to search the room of the minor who was on probation.

METHOD OF INVESTIGATION:

On April 4, 2006 a Grand Jury committee met with the supervisor of the Merced County Probation Department.

FINDINGS:

The supervisor stated that he was part of the raid on the complainant's residence. The supervisor stated the raid was part of a multi-agency task force and confirmed the number of officers that were at the residence. He further related that nine officers were needed to secure the residence because of the number of people inside the residence. The supervisor also confirmed that a door was kicked in and that cables were cut. He was not aware of any damage to a cell phone. He also stated that a female at the residence was taking photographs of the officers during the search. The supervisor said that the Probation Department will pay for any accidental damage and that they are required to secure the residence before they leave. He also said that three people at the complainant's residence were arrested for warrants and rugs and that drug paraphernalia was also seized. This was part of an on-going criminal investigation.

RECOMMENDATIONS:

None.

**STATE OF CALIFORNIA PAROLE
HARRASSMENT
GRAND JURY COMPLAINT
#05-06-23**

COMPLAINT:

The complainant alleged she was being harassed by the parole agency. A Grand Jury committee contacted the State of California Parole in Merced. The parole agency supervisor was advised that the Grand Jury did not have any jurisdiction in this matter and was only trying to obtain sufficient information in order to respond to the complainant. The supervisor at the parole agency advised that the complainant was in violation of her conditions of parole and that a criminal investigation was also being conducted on the complainant.

NOTE:

It should be noted that the State Parole Agency was very cooperative with the Grand Jury and their assistance with this inquiry is very much appreciated.

RECOMMENDATIONS:

None.

**Local Agency Formation Commission (LAFCO)
Grand Jury Complaint
05-06-24**

COMPLAINT:

The grand jury received an informal complaint that despite the requirements of California law that requires the LAFCO to be independent from the governing body of the County of Merced, that due to staff support provided by the County, that the County has undue influence over the decision making authority of the Local Agency Formation Commission.

Background

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 charges the LAFCO with the task of determining the best way for providing government services and how these services should be organized. One of the primary functions of LAFCO is to rule on the annexation of land by various governmental entities in order to provide services to the people within the boundaries of a specific district or city.

The Commission consists of two members of the County Board of Supervisors, two elected officials representing the incorporated cities in the County, and one Public Member elected by members of the Commission.

An outside law firm, under contract with the Commission, provides legal services.

Staff support to the Commission is provided by the Merced County Planning and Community Development Department under a Memorandum of Understanding (MOU) with the County of Merced.

Method of Investigation

Attended the 4/28/2006 LAFCO meeting.

Interviewed the LAFCO Executive Director on 5/1/2006.

Documentation

Reviewed Cortese-Knox-Hertzberg Act of 2000, Government Code 56000 et al

Reviewed AB 1746, Local Government Reorganization

LAFCO Budget and Fee schedule

LAFCO cost sharing documents for participating agencies

Reviewed LAFCO Agenda's and minutes

Findings

The Grand Jury finds that the Local Agency Formation Commission (LAFCO) is structured and operates according to the laws of the State of California that governs the Commission. The perception that the Commission is not totally independent from the County of Merced will probably remain as long as county planning staff remains as the staff for LAFCO. There was an attempt to discontinue the practice of using county planning staff to support LAFCO when the Merced County Board of Supervisors made a determination that county staff was needed to accomplish planning task specific to county government. However, following a reorganization of the planning department, the county had a change of heart and decided to offer LAFCO the option of continuing use of county planning staff. The Commission had already approved a Request for Proposal (RFP) that was submitted to interested parties to supply the Commission with planning staff. The two proposals were considered inadequate and the Commission decided unanimously to withdraw the RFP and sign an MOU with the County Planning Department to continue the use of county staff to support LAFCO.

The Grand Jury reviewed five years worth of LAFCO minutes and there was no evidence that the LAFCO members of the County Board of Supervisors had undue influence over LAFCO.

It must be noted that city officials that originated the issue of excessive influence by the County of Merced are no longer represented on LAFCO due to the policy of rotating the two city representatives among the six incorporated cities in Merced County.

Recommendations

No further action is necessary

**DELHI UNIFIED SCHOOL DISTRICT
DISTRICT SUPERINTENDENT
GRAND JURY COMPLAINT
#05-06-25**

COMPLAINT:

The Grand Jury received a complaint regarding the Delhi School District and due to the length of time left in this year's grand jury term, it was referred over to the new 2006-2007 Grand Jury.