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Disclaimer

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Section 911, 924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Section 924.2 and 929).

WATER IS GOLD

BACKGROUND:

The California Legislature enacted a ground breaking Sustainable Groundwater Management Act (SGMA) in late 2014, effective January 1, 2015. This act provides for a legal framework to reasonably regulate production of groundwater in California. Aside from surface water regulation enacted in 1914, groundwater management in the state is the first of its kind. As a requirement of SGMA, a Joint Powers Authority was created by board members from local districts and others to cooperatively work towards groundwater sustainability by establishing a Groundwater Sustainability Agency (GSA) by June 30, 2017, which reports directly to the State Water Resources Board. Local water districts will then work collaboratively to develop a Groundwater Sustainability Plan (GSP) with a 20 year timeline for implementation of groundwater management in the Tulare Lake Hydrologic Region. Relevant to this report, affected water districts located in the southwest section of the county are:

- Deer Creek Storm Water District (DCSWD)
- Atwell Island Water District (AIWD)
- Angiola Water District (AWD)

Finding a collaborative path toward reaching SGMA goals has proven a challenging task for local districts. There have been multiple opinions amongst district members regarding the legal and ethical processes of pursuing GSA and GSP implementation.

REASON FOR INVESTIGATION:

The Tulare County Grand Jury (TCGJ) received complaints alleging the aforementioned water districts board's lack of compliance with existing governing bylaws, fund mismanagement and Brown Act violations.

METHOD OF INVESTIGATION:

- Interviewed witnesses
- Attended board meetings
- Reviewed documentation

FACTS:

1. The DCSWD bylaws state, “Should a vacancy occur or be found to exist in the office of trustee, the Board of Trustees shall submit to the board of supervisors a list of suggested appointees, and the board of supervisors shall fill the vacancy by appointment.”
2. On October 31, 2016, a DCSWD special board meeting was held to appoint a board member to fill a vacancy.
3. The AIWD bylaws state, “Replacements for vacancies on the board shall be selected and appointed by a majority of the remaining Directors then in office, even though less than a quorum, or by the sole, remaining Director (s). A successor Director so selected shall serve the unexpired term of the vacating Director if the next general election, the appointed Director serves only until the next General Election. A Director elected under these circumstances will serve the remainder of the vacating Director.”

FINDINGS:

- F1. It appears DCSWD was not in compliance with their bylaws pertaining to a board appointment made on October 31, 2016.
- F2. Per AIWD bylaws, the January 9, 2017, board member appointment to fill a vacancy was found to be appropriate.
- F3. The allegation of misappropriation of funds by the DCSWD Board was not substantiated.
- F4. Brown Act violations could not be substantiated.

RECOMMENDATIONS:

- R1. DCSWD Board comply with established bylaws pertaining to appointments.

REQUIRED RESPONSES:

1. DCSWD Board (F1 and R1)



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