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TULARE COUNTY GRAND JURY REPORT 2015-2016

FINDINGS

Instructions are provided to all entities to which responses are required. Not all entities responded by the specified due date. However, with subsequent requests to do so, all entities eventually responded. All entities responding to a report must do so in accordance with California Penal Code §933.05.

At the conclusion of each report compiled by the Grand Jury there is a section entitled “Required Responses.” In this section appear the names of the departments, agencies and/or elected officials whom the Grand Jury determines should address the issues detailed in the report. In many instances where the Board of Supervisors is named as a “Respondent,” the response will be that the matter or agency delineated in the report “is not within the purview of the Board of Supervisors” and, therefore, no response is forthcoming. Inasmuch as the Board of Supervisors ultimately holds the “power of the purse” (i.e. determines how much in the way of financial resources will be allocated to the agency, department or office) over all entities within the scope of county government, the “not within the purview of” seems to sidestep the Board of Supervisors’ inherent authority as well as avoid the assumption of responsibility.

RESPONSES

2014-2015 Responses and the 2014-2015 Final Report may be found on the Tulare County Grand Jury Website: <http://tularecounty.ca.gov/grandjury>

2015-2016 Responses and the 2015-2016 Final Report may also be found on the Tulare County Grand Jury Website: <http://tularecounty.ca.gov/grandjury>

NIGHTMARE IN LINDSAY

BACKGROUND:

The City of Lindsay is located southeast of Visalia and north of Porterville within Tulare County and is considered part of both the Visalia-Porterville Metropolitan Area and the Porterville Urban Area by the United States Census Bureau. The population was reported at 11,768 in the 2010 census and was estimated in 2014 to be 13,192. Lindsay is a charter city with a council-manager form of government.

Before establishment of the community, the Yandanche tribe of Native Americans came to hunt and fish at the site for centuries. John C. Fremont, an American military officer, explorer, and politician, passed through the area on four of his exploration trips. Fremont would later become the Military Governor of California (1846).

Captain Arthur Hutchinson moved to California for health reasons in 1889 and purchased 2,000 acres of land in what would later be the Lindsay area. Shortly thereafter, the Southern Pacific Railroad established a route through the area. This spurred Hutchinson to lay out and develop the Lindsay townsite, named after his wife, Sadie Lindsay Patton Hutchinson. The community grew and was incorporated as a city on February 28, 1910.

REASON FOR INVESTIGATION:

The 2015-2016 Tulare County Grand Jury received complaints alleging Open Meeting (Brown Act) violations and criminal wrongdoing involving quid-pro-quo dealings by the City of Lindsay. The Grand Jury found the Brown Act violations were difficult to substantiate. The Grand Jury was concerned, however, with the appearance of civil impropriety occurring within the Lindsay city government as these complaints were investigated. The Grand Jury elected to inquire further into the public affairs of the City.

METHOD OF INVESTIGATION:

The Tulare County Grand Jury initially started the investigation by interviewing the complainants. Afterward, other witnesses familiar with different aspects of the issues were interviewed.

The Grand Jury obtained and reviewed written information from various sources, including but not limited to public media and applicable official city documents. Sworn statements and transcripts were also examined.

FACTS:

1. After the resignation of Lindsay's city manager in November of 2010, the then current Police Chief was appointed as the city manager, thus combining the two positions.

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2. The District Attorney conducted an investigation of Open Meeting (Brown Act) violations by the Lindsay City Council.
3. On at least two (2) occasions, no more than two (2) council members met in unofficial meetings at private residences to discuss employee union matters. In no known cases, however, was a quorum present.
4. A court document and witness statements alleged there was a flagrant misallocation by a city official of directing their employees to perform personal services outside the city's jurisdiction on city time.
5. In the complaints, there were allegations of misconduct (e.g., collusion, cronyism, nepotism, harassment, etc.) by various city officials.
6. The city reached high-cost employment severance settlements (in excess of \$400,000) with a number of employees over the issue of termination.
7. The city council imposed employee furloughs, claiming financial constraints.

FINDINGS:

- F1. The Grand Jury determined the combining of the office of city manager and police chief positions critically weakened the checks-and-balances with regards to personnel issues. This eliminated the division of authority to more than one person and position.
- F2. A number of costly employee settlements resulted from the aforementioned combination of these two positions.
- F3. The Grand Jury determined that the lack of meaningful evidence made allegations of Brown Act violations difficult to substantiate.
- F4. Some City council members were involved in discussions over union issues at private residences and outside the parameters of established procedures.
- F5. The cost of the employee settlements contributed to the city's poor financial condition and the necessity to impose employee furloughs.

RECOMMENDATIONS:

- R1. Lindsay City Council members should thoroughly familiarize themselves with open meeting laws (Brown Act) and generally acceptable procedures for conducting municipal business.
- R2. The Lindsay City Council should be more deliberative when considering the combining of key managerial positions.