



CITIES AND JOINT POWERS COMMITTEE

MISSION STATEMENT

The Cities and Joint Powers Committee of the 2015-2016 Kern County Grand Jury is responsible for reviewing and overseeing the management, performance, and financial responsibilities of incorporated cities and joint powers agreements within Kern County. The Committee's objective is to facilitate proper government practices in a manner that is fiscally responsible, transparent and efficient.

Members: Mark Smith, Chairperson, Fred Garcia, Jr., Ray Grissom

CITIES AND JOINT POWERS COMMITTEE

SUMMARY OF ACTIVITIES

The Cities and Joint Powers Committee wrote the following reports that were approved by the Grand Jury and published:

- City of Bakersfield - Department of Recreation and Parks
- City of Delano - Celebrating a Century, Planning for the Future
- HIDDEN GOVERNMENTS - Joint Powers Authorities in California

Inquired into the operations of the following cities:

- Arvin
- Bakersfield
- California City
- Delano
- Maricopa
- McFarland

Reviewed Complaints:

Three complaints were referred to the Cities and Joint Powers Committee. These complaints were reviewed and approved by the Grand Jury for closure through a letter.

Further visits/inquiries made:

- City of Bakersfield Water Department
- City of Bakersfield Code Enforcement
- City of McFarland - McFarland Tri-Agency Partners
- Tobacco Settlement Joint Powers Authority
- Kern Groundwater Authority

Other Activities

- Served on Grand Jury operating committees
- Toys-4-Tots Toy Drive
- Grand Jury Awareness Week

CITY OF BAKERSFIELD CODE ENFORCEMENT ON THE FRONT LINES

SUMMARY:

Neighborhoods becoming blighted, remodeling being accomplished with no regard for safety, vendors selling on street corners and homeless people camping in the riverbed, all are affecting the quality of life in Bakersfield. For these issues, the City of Bakersfield (City) Code Enforcement is on the front lines in maintaining the City's quality of life.

For this inquiry, the most eye-opening event was the removal of many homeless encampments and piles of trash located in the Kern River area of the City. However, as recommendations, the 2015-2016 Kern County Grand Jury (Grand Jury) believes that accessing Code Enforcement to file a complaint and communications with respondents to a citation are areas that should be improved.

PURPOSE:

California Penal Code §925 authorizes a grand jury to investigate incorporated cities. The Grand Jury inquired into the work of the City of Bakersfield Building Department, Code Enforcement Section (Section or Code Enforcement).

PROCESS:

The Cities and Joint Powers Committee (Committee) of the Grand Jury interviewed Section personnel and rode with a Code Enforcement Officer (Officer) as he journeyed through the city in performance of his duties. The Committee interviewed citizens who were subject to Code Enforcement abatement procedures. During the investigation, a Kern River Encampment Clean-up was scheduled. Members of the Grand Jury observed the identification, notification and abatement process.

FACTS:

Code Enforcement takes property maintenance, housing, zoning compliance, street vendors, yard sales, junk and/or abandoned vehicle complaints for properties in the City. Staff also participates in the homeless encampment cleanup. An employee is on call to respond to after-hour emergencies. The office is located in the Community Development Building, 1715 Chester Avenue, Bakersfield, California. The staff consists of a Director, two Supervisors, ten Officers, one of whom is on military deployment and two clerical employees. The staff investigates an average of 175 complaints per week.

Filing a Complaint

Currently, there are several methods by which a person can report a code violation:

- Phone App called Bakersfield Mobile - users should be able to report service related issues to the City, including damaged parks equipment, illegal dumping, graffiti, streetlights, traffic signals and potholes. However, at the present time, coordination between the app and Code Enforcement has some difficulties
- Complaint Line – complainant leaves detailed message regarding issue. Staff enters information into system that assigns a case number and initiates the investigation and enforcement process. A case number can also be instituted by a Code Enforcement Officer. A complainant can remain anonymous or request they be contacted as needed
- City Website - Access and search for procedure to file including contact information
- Other Personnel – Contacting departments, such as Police or Fire, seeking the correct method to get something accomplished. Frustration causes complainants to also contact City Council members or other officials

Code Enforcement Response

If the issue is validated, the abatement process is instituted as follows:

Action	Result	Fee	Accumulated Costs
Initial Inspection	Citation Issued with 7 day notice	\$0	\$0
Re-inspection	2 nd Notice sent for Hearing	\$115	\$115
Hearing	Owner may attend Decision subject to appeal	\$210	\$325
Non-compliant	30 day notice sent	\$325	\$650
Abatement Warrant	If required	\$580	\$1230
Abatement	Private contractor	Direct costs	These costs can be substantial
Case closed if compliance accomplished at any time in process. Lien attached to property for accumulated costs.			

Cited Property Owners

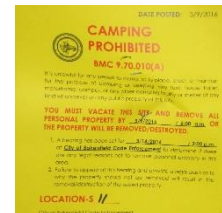
Navigating the Code Enforcement process can be a daunting task for a property owner. Options available to them are limited. The most obvious option is to remediate the problem quickly. If so, the case is closed and no further action is taken.

Not all property owners understand what is expected of them. In some situations, a small piece of information can clear the case. Some circumstances require that more time is needed or a better understanding. In those situations, communication with a Code Enforcement Officer can be established, usually by telephone or e-mail. Property management companies must rely on owners notifying them of a citation. Delays in abatement create additional issues and fees.

Abatement Hearings are scheduled weekly at the Community Development Office. Conducted by Code Enforcement personnel, owners or their representative may speak regarding the issue and planned remediation. A decision is given, which is appealable, for proper abatement. Once the code issue is resolved by the property owner or at City direction, the case is closed. No further action is taken by owner or City. A lien is placed against the property for all costs involved.

Prohibited Encampments

City of Bakersfield Municipal Code 9.70.010, states *“it is unlawful for any person: A. To camp, or to place, erect, or maintain for the purpose of camping or sleeping, any tent, house trailer, motorhome, camper, or any other camping facility or shelter of any kind whatsoever on any public property of this city; or B. To sleep out of doors on any public property, including city parks, sidewalks, or city-owned parking lots and parking structures, between sunset and sunrise.”*

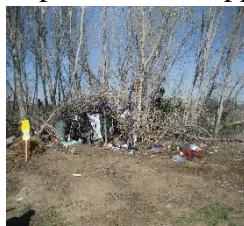


On March 9, 2016, officials of Code Enforcement, legal representatives for the City of Bakersfield and City of Bakersfield Police Department (BPD) Officers proceeded to the Kern River bed to locate, photograph and post notification to occupants of encampments in the river bed. On March 16, 2016, Code Enforcement Officers, other officials and BPD Officers began the process of dismantling and clearing the debris at these encampments. Utilizing employees from multiple City of Bakersfield Departments, all camps were cleared of occupants, and personal property was marked to be stored for thirty days before disposal if unclaimed. Obvious debris was immediately disposed.

Several members of the Grand Jury, as observers, noted the following:

March 9, 2016 Identifying and Posting Encampments

- Involved City Departments were represented
- Global Positioning System (GPS) technology was used to identify encampment location
- Notices were posted at all identified encampments
- Non-profit assistance agencies were present as observers
- Encampments were approached in a non-threatening manner



Campsite



Encampment Map



Posting

March 16, 2016 Abatement

- City personnel and equipment were utilized
- BPD “Lincoln Unit” Officers were present
- Personnel used caution while sorting items because of possible “sharps” or other hazards
- Sorted item(s) thought to be of personal value were identified and bagged for thirty days storage to allow for retrieval by owner
- Bakersfield Homeless Center teams assisted in the clean-up
- Non-profit organizations met with the displaced to offer assistance to find suitable housing and other needed services



City Equipment



City Equipment



Center Team



Hazardous Debris

FINDINGS:

- F1. The Grand Jury noted the effective use of technology, such as GPS for location, digital photography for validation and portable computers for documentation.
- F2. Anyone wishing to file a complaint for code violation could have difficulty contacting Code Enforcement:
- City of Bakersfield website uses terminology not generally known for this type of complaint
 - When Code Enforcement website is found, there is not a complaint or contact number listed
 - If a person tries to contact Code Enforcement directly they must do so through the Building Department desk. However, this can impact desk personnel answering questions and transferring calls
- F3. Citizens who were issued enforcement citations stated there was difficulty in some communications:
- The citation is often the first contact a property owner has ever had with the enforcement process
 - Phone messages are perceived to not be returned in a timely manner
 - Citizens are not given specific information needed to clear citation quickly
 - Some small “mom and pop” property owners are likely to need additional help

- F4. Property management companies receive citations for units under their management, but may know little about Code Enforcement procedures.
- F5. Property management company personnel may not know that they can inform Code Enforcement of conditions surrounding the properties they are involved with to help prevent deterioration.
- F6. The legal process is well established and does not allow for common sense deviation. Once becoming involved with Code Enforcement, the process becomes “bureaucratic” and must “grind” to completion.
- F7. Encampment clean-up in the Kern River bed appeared to be well planned, structured and executed.

COMMENTS:

Code Enforcement Officers are tasked with responsibilities that can bring property owners discomfort, anxiety and financial stress. When a potential threat exists, law enforcement can be called.

The 2015-2016 Kern County Grand Jury would like to thank the personnel of the City of Bakersfield Code Enforcement Section for the cooperation, professionalism and assistance during this inquiry.

RECOMMENDATIONS:

- R1. The Grand Jury recommends the City website be changed so the public can easily find how and where to file a code complaint. (Finding F2)
- R2. The Grand Jury recommends some form of identification for Code Enforcement is visible upon entering the Community Development Building. (Finding F2)
- R3. The Grand Jury recommends it be emphasized to the Officers of the necessity to give clear directions to property owners. (Finding F3)
- R4. Develop and schedule workshops for property management companies to understand Code Enforcement processes. (Findings F4, F5 and F6)
- R5. Develop an on-line video for the City website that explains the process of investigating, documenting, notifying property owners and holding appeal hearings. City staff, high school or college students could produce and act in the video. (Findings F5 and F6)

NOTES:

The City of Bakersfield should post a copy of this report where it will be available for public review.

Persons wishing to receive an email notification of newly released reports may sign up at www.co.kern.ca.us/grandjury.

Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: www.co.kern.ca.us/grandjury.

RESPONSE REQUIRED BY CITY OF BAKERSFIELD CITY COUNCIL WITHIN 90 DAYS TO:

**PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301**

**CC: RICHARD FRANK, FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301**



Community Development Department

Phil Burns, Building Director
Building Division
Phone: (661) 326-3720
FAX: (661) 325-0266

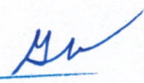
Jacquelyn R. Kitchen, Planning Director
Planning Division
Phone: (661) 326-3733
FAX: (661) 852-2136

September 12, 2016

Richard Frank, Foreperson
Kern County Grand Jury
1415 Truxtun Ave.
Bakersfield, CA 93301

RECEIVED

SEP 19 2016

By 

RE: Response to Grand Jury Report

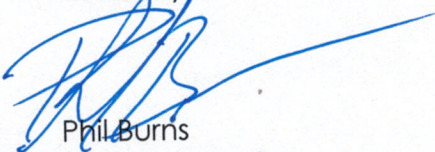
Dear Mr. Frank,

Thank you for the opportunity to respond to the Grand jury Report regarding the City of Bakersfield, Code Enforcement section of the Community Development Department.

City staff found that the Facts and Findings sections consist of true statements of Code Enforcement section's operations. The Recommendations Section pointed out some areas that we needed to improve our communications and customer service with the public. We appreciate your review and highlighting those issues as we desire to provide the best customer service possible to the residents.

As requested, City Staff had City Council review and approve a response to the Grand Jury Report dated June 16, 2016. Please see the attached documentation.

Sincerely,


Phil Burns
Building Director

Cc: Alan Tandy, City Manager
Richard Iger, Assistant Attorney
Chris Gerry, Administrative Analyst

City of Bakersfield Grand Jury Report Response

The responses below correlate to the lettering system and recommendations identified in the Grand Jury report dated June 16, 2016.

R1. The Grand Jury recommends the City website be changed so the public can easily find how and where to file a code complaint. (Finding F2)

The City website is now revised to make it easier for the public to understand how and where to make a complaint. The website includes information on making a complaint to a voice message, fax, email, or in-person. City staff is in process of deploying an app along with a web interphase that makes the process even more customer-friendly. The app will likely be tested through September and should be available to the public in October. Also, the website is now revised to explain various types of code violations and includes answers to frequently asked questions.

R2. The Grand Jury recommends some form of identification for Code Enforcement is visible upon entering the Community Development Building. (Finding F2)

City staff is in process of having the appropriate signage be placed within the entrance lobby of the Community Development Department (1715 Chester Avenue). Also, City staff is evaluating how the public can streamline notifying City staff upon entering the lobby without having to wait in the line relating to building permits.

R3. The Grand Jury recommends it be emphasized to the Officers of the necessity to give clear directions to property owners. (Finding F3)

City staff has revised the City website to provide clear office hours for when City staff is publicly available for phone calls. In addition, the website now includes direct contact information for office staff and supervisors. City staff is in process of creating a voice mail greeting that includes office hours. Furthermore, the website now clearly describes the City's administrative process, provides various examples of code violations, and outlines frequently asked questions.

R4. Develop and schedule workshops for property management companies to understand Code Enforcement processes. (Findings F4, F5, and F6)

City staff educates the public regarding their responsibility in maintaining their properties; the administrative process used to seek compliance; and methods for reporting nuisance conditions through community outreach. The types of venues for community outreach include street fairs, health fairs, National Night Out, Law Enforcement Day at the Park, neighborhood watch meetings, Downtown Business Association meetings, service organization meetings, homeowner association meetings, and other events.

Also, City staff has partnered with the Bakersfield Police Department (Community Relations) to host the Crime Free Multi-Housing workshop for at least the last 15 years. This eight-hour

workshop is a nationally recognized program that has consistently proven to be an effective tool to help property managers, owners, and tenants keep illegal activity out of their rental properties. The workshop is designed to encourage cooperation with different city agencies and improve the quality of life for residents.

The Bakersfield Police Department (Community Relations) offers this free workshop typically two times per year, and attendance ranges from 12 to 50 attendees per workshop. The workshops are advertised through press releases and social media to inform landlords, property management companies, property owners, and tenants of the opportunity.

R5. Develop an on-line video for the City website that explains the process of investigating, documenting, notifying property owners and holding appeal hearing. City staff, high school or college students could produce and act in the video. (Findings F5 and F6)

The City website is now revised to make it easier for the public to understand the code enforcement process, how to contact City staff for complaints, or for additional information. In addition, City staff has created a video describing the process and plans to create more videos in the future. A detailed flow chart has been created to identify the steps in the administrative process. Finally, the website has been revised to explain various types of code violations and includes answers to frequently asked questions.

**CERTIFICATION OF ACTION TAKEN AT A REGULAR MEETING OF
THE COUNCIL OF THE CITY OF BAKERSFIELD HELD ON
THE 7th DAY OF SEPTEMBER 2016**

CONSENT CALENDAR

8. aj. Response to the Kern County Grand Jury report regarding the operations of the City of Bakersfield's Community Development Department, Building Division (Code Enforcement Section).

Motion by Vice-Mayor Hanson to adopt Consent Calendar items 8.a. through 8.aj.

Unanimously passed by the following vote:

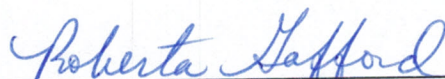
Ayes: Rivera, Maxwell, Weir, Smith, Hanson, Sullivan, Parlier
Noes: None
Abstain: None
Absent: None

STATE OF CALIFORNIA)
)
COUNTY OF KERN)

I, Roberta Gafford, City Clerk of the City of Bakersfield, State of California, hereby certify the foregoing and annexed to be a full, true and correct copy of action taken at a regular meeting of the Council of the City of Bakersfield held on the 7th day of September 2016.

WITNESS my hand and seal this 13th day of September 2016.




ROBERTA GAFFORD, CMC
CITY CLERK and Ex-Officio Clerk of the
Council of the City of Bakersfield

CITY OF BAKERSFIELD

DEPARTMENT OF RECREATION AND PARKS

In a Time of Drought, What is a Tree Worth?

SUMMARY:

Trees can be valued in several ways. A 15 gallon tree can be purchased and planted for about \$120. For a mature tree, the *Landscape Tree Appraisal* by Purdue University Department of Horticulture assesses tree values based on species, location, size, and other factors. As examples of replacement values, Purdue University valued a 4" Red Oak on a city street at \$2,847 and a 10" Sugar Maple in a city park at \$3,544. The American Forestry Association values a tree's benefits to the environment over 50 years at \$57,000.

In addition to these economic assessments, trees are valued for aesthetic and environmental benefits that are hard to quantify. A perspective was provided by a writer to *The Bakersfield Californian* who stated, "*We need policies that value older, bigger trees more than little, young whips. By allowing trees to die and then replacing them in areas not to be modified by pending construction leaves us with continuing inventory of young, small trees that never get a chance to get big.*"

The current drought is stressing trees in parks and streetscapes and many mature trees will not survive. Given that, how should the City of Bakersfield Department of Recreation and Parks respond?

PURPOSE OF INQUIRY:

The California Penal Code §925a authorizes a grand jury to investigate and report upon the operations of any city and make such recommendations a grand jury may deem proper. The purpose of this inquiry was for the 2015-2016 Kern County Grand Jury (Grand Jury) to understand the extent to which the City of Bakersfield (City) Department of Recreation and Parks (Department) is able to maintain the City-owned parks and public landscaping in this time of drought.

PROCESS:

The Cities and Joint Powers Committee (Committee) interviewed Department staff, reviewed the 2015-2016 budget and other documents pertinent to the inquiry and conducted research on the internet. The Committee took a tour of landscaped areas that are the responsibility of the Department, consulted the Tree Foundation of Kern and researched other resources for perspective on issues of interest. The Committee also reviewed the Bakersfield Recreation and Parks Master Plan (Master Plan), written in 2007, which is available on-line.

FACTS:

- A. The City encompasses 150 square miles with an estimated population of 369,505.
- B. The Department maintains 59 parks, Kern River Parkway, Dr. Martin Luther King, Jr. Community Center, Silver Creek Community Center, McMurtrey Aquatic Center and Centennial Plaza.
- C. The City has approximately 243 miles of public landscaping along streets, referred to as streetscape, maintained by the Department. Some streets have three areas to maintain which include both sides of the street and median. Other streets include just one side of the street and a median while others include just one side of the street. As development occurs, the mileage increases. Areas not maintained by the Department include business property, schools, apartments, private property and areas not within the City limits.
- D. Trees in the urban environment provide many benefits. These include improved air quality, reduction in summer temperatures and air conditioning costs, improved water quality, reduction in crime and increased property values. The City recognizes these benefits by requiring developers to adhere to standards that include the planting of trees and other plants as part of street development.
- E. There are an estimated 85,000 trees in the City-owned inventory of parks and streetscape. For purposes of illustration, at \$750 per tree the value of the public tree inventory would be over \$63 million. Shrubs and ground cover would add considerably to that figure.
- F. At a local nursery a 15 gallon tree can be purchased for about \$70 and planted for approximately \$50. A 24" box tree would cost around \$230 and be planted for about \$100.
- G. The American Forestry Association values a tree in a forest in terms of erosion control, air pollution reduction and wildlife shelter over a period of 50 years at more than \$57,000.
- H. In December, 2014 the Bakersfield City Council approved a one-year \$325,000 contract for tree-trimming services. Contractor services include pruning, tree removal and stump removal as directed by the Department. Under the contract, a small tree costs \$50 to remove, whereas a tree that is greater than 36" in diameter, costs \$1,500 to remove.
- I. On September 2, 2015, the City Council amended the tree-trimming contract to increase the amount to \$650,000 and extend the term to June 30, 2016. The report to the City Council stated "*Contract activity has increased with the need to remove dead trees due to drought conditions.*" The report also noted that additional funds might be needed before the end of the new term.

- J. For 18 years, the City has been a “Tree City USA” under Arbor Day Foundation criteria.
- K. In the event of damage to a tree as a result of an accident, the Department calculates the value of replacement for an insurance claim. Costs include City staff time and equipment to remove the damaged tree, prepare the site and for a contractor to provide and plant a new 24” box tree.
- L. The 2015-2016 Department budget of \$18,991,657 is allocated as follows:

	Funding Source		<u>Total (\$)</u>	<u>Percent Allocation</u>
	<u>General Fund (\$)</u>	<u>Maintenance District (\$)</u>		
<u>Recreation</u>	2,901,543	0	2,901,543	15%
<u>Parks Maintenance</u>	2,534,958	1,962,554	4,497,512	24%
<u>Streetscapes Maintenance</u>	5,865,202	4,540,815	10,406,017	55%
<u>Administration</u>	1,186,585	0	1,186,585	6%
Total	<u>12,488,288</u>	<u>6,503,369</u>	<u>18,991,657</u>	<u>100%</u>

- M. The Department’s 2015-2016 budget for salaries and benefits for 150 authorized full-time employees is \$10,466,381. As of September 23, 2015, 148 positions were filled.
- N. The 2015-2016 budget for 220 authorized temporary employees is \$1,161,686. As of August 31, 2015, 146 positions were filled.
- O. For purposes of maintaining the public parks and streetscape, the City is divided into five geographic areas. A supervisor and subordinate employees are assigned to each area. There is a sixth “trades” section with employees who have more specialized skills, including a tree trimming crew. These employees work in the five geographic areas as needed for particular projects or duties.
- P. The Department maintains and staffs two community centers, an aquatic center and other facilities:
- The Dr. Martin Luther King, Jr. Community Center is located at the intersection of East California Avenue and South Owens Street. The meeting rooms, kitchen, picnic areas, and gymnasium, are available for rental to the public. Reservations must be made at least 3 weeks in advance and require a minimum \$100 cleaning deposit. A two hour minimum rental

fee is required. There is also a pool which is operated seasonally by the Department.

- Silver Creek Community Center is located at the corner of Harris Road and Reliance Drive in southwest Bakersfield. This 14-acre complex features a pavilion, swimming pool, which is open seasonally, two meeting rooms, performance stage, disc golf course, tennis courts, horseshoe pits, par exercise course and two large picnic areas. Some of these areas are available for rental on a first come, first-served basis. The Silver Creek meeting rooms, kitchen, picnic areas and pavilion (covered court), are available for rental to the public. Reservations must be made at least 3-weeks in advance and require a minimum \$200 cleaning deposit.
- The McMurtrey Aquatic Center (Center) is located at 1325 Q Street. The Center features an Olympic size competition pool, water slides, one and three meter diving boards and picnic areas for public use and party rentals. The Center also provides a variety of water programs.
- The Saunders Multi-purpose facility has year round soccer, in-line hockey, basketball and roller derby events. Outdoor fitness facilities are available to the public at City in the Hills, Truxtun Avenue and Aera Park. Mesa Marin Sports Complex operates one of the largest softball leagues in California, as well as various tournaments year round. State Farm Sports Village offers soccer and youth football to over 4,000 children through agreements with AYSO and Golden Empire Youth Football.

Q. The City of Bakersfield Parks and Recreation Master Plan was written in 2007. The Master Plan states: *“The purpose of doing a Recreation and Parks Master Plan is twofold. First, it provides the City with an opportunity to assess its past and future growth and where it is in terms of providing the needed facilities and programs to serve that growth. Secondly, it provides the City with an updated Master Plan suggesting policies, park standards, current and future needs assessments, analysis of facility conditions and funding/financial recommendations which results in a current strategic planning document allowing the City to address the needs, issues, and demands for recreation programs, facilities, and parks to better serve the Bakersfield community now and in the future.”*

R. The Master Plan suggests it should be updated every 5 to 7 years. One objective in the approved 2015-2016 Department budget is: *“Identify funding source(s) to review and update Recreation and Parks Master Plan to include future community needs.”*

FINDINGS:

- F1. Drought and water rationing are stressing City owned trees and shrubs in parks and along streets. Department staff and resources are insufficient to keep parks and streetscape maintained at an acceptable level in the coming months and years.
- F2. City owned parks and streetscape require considerable maintenance. Department staff carry out routine maintenance and respond to increased citizen concerns about broken and poorly adjusted sprinklers, distressed trees and other observations. Staff provides support for removal of homeless encampments in the Kern River, assists in sidewalk replacement where tree roots lift sidewalks, and carries out tree removal and trimming around City facilities, among other duties.
- F3. Department staff assigned to streetscape maintenance appears to be knowledgeable and hard working. However, drought and water rationing have led to additional workload that is stretching staff time and equipment to the limit. When equipment is out of service, some work must be deferred while awaiting repairs or replacement.
- F4. Citywide reduction in water usage means less water is being applied to landscaping. Compared to 2013, the Department has reported that the City has cut water use by about 50% for City facilities, parks and streetscape.
- F5. City policy, to comply with State mandates, requires irrigation to occur only on designated days and times. Controllers that regulate the timing and duration of irrigation cannot in all cases accommodate these daily restrictions, leading to less efficient watering patterns and increased stress on vegetation. In some areas, watering by the City must be further curtailed to maintain acceptable water pressure in surrounding areas.
- F6. The words “rain”, “drought” and “desert” are not mentioned in the Master Plan, indicating that a drought was not anticipated in 2007.
- F7. Maintenance of streetscapes is mentioned in the Master Plan, but almost exclusively from the standpoint of recommended funding through maintenance districts. City Subdivision and Engineering Design Manual Standards for Landscaping applicable to development proposals do not emphasize planting and hardscape that recognize the need to conserve water in a time of drought.
- F8. Streetscape areas under the responsibility of the Department are not well documented in an easily accessed format. Maintenance staff therefore must depend upon their own knowledge of streetscape areas in their daily work. Such knowledge can be difficult to pass on to other employees and interested third parties.

- F9. Geographic Information System (GIS) mapping is available for tree location mapping. The cost for consultant services is in the range of \$2.00 - \$5.00 per tree. The information can be compiled with location, species, size and condition. Maps can be printed from the database.
- F10. The City utilizes a work order system called Mainstar and in addition uses the "CitySourced" app which tracks complaints from the public. Additional technology is available that can access the GIS database in the field and could also be used to log complaints and work orders. Adapting this technology to the needs of the Department would allow complaint follow-up, rapid response to important repairs, and better communication and documentation.
- F11. If enough trees are lost due to the drought the City could be at risk of losing the "Tree City USA" designation.
- F12. In the event of damage to a tree as a result of an accident, the Department calculates the insurance claim based upon staff time and equipment to remove the damaged tree and prepare the site, and for a contractor to provide and plant a new 24" box tree. This method does not take into account the size, age or species of tree. For example, if a large diameter tree must be removed as a result of an accident, the small diameter replacement tree would take many years to reach the same size and maturity. The benefits of that larger tree are therefore lost in this example of a calculation for an insurance claim.
- F13. The Department would like to offer more recreational activities than currently available. The two City community centers currently offer some after school programs and anyone is welcome to attend. However, these centers may not be easily accessible from all areas of the City.
- F14. According to the Department, approximately 17 years ago, the Bakersfield City and Greenfield School Districts opened their facilities for after school programs that were planned, organized and supervised by the Department:
- Consisted of homework help, sports, arts and crafts and non-competitive games
 - Schools funded half and the District funded half to cover staffing, supplies and equipment
 - Schools started their own programs and the Department contracts were phased out over a twelve year period
 - According to the Department, the costs became prohibitive when the schools began charging fees for custodians, room rentals and other costs. The Department states, *"It is frustrating to see the gates locked after school and in the summer, keeping the kids out once the school bell rings"*

- F15. The Kern High School District (KHSD) currently has a joint use agreement with the Department to use city pools for swim team practices and some swim meets.
- KHSD donated money to help build the McMurtrey Aquatic Center
 - The schools have first priority in use of the pools, outside of the City programs
- F16. As stated by the Department, *“More dialogue with community leaders, school administrators and board members would result in greater opportunities for children during their out of school hours”*.
- F17. According to the Kern County Superintendent of Schools, all school districts within the County have a reasonable policy to allow community use of school facilities. Educational Code §38131 (a) states: *“There is a civic center at each and every public school facility and grounds within the state where the citizens, parent teacher associations, Camp Fire girls, Boy Scout troops, veterans' organizations, farmers' organizations, school-community advisory councils, senior citizens' organizations, clubs, and associations formed for recreational, educational, political, economic, artistic, or moral activities of the public school districts may engage in supervised recreational activities,…”*

COMMENTS:

The Committee would like to thank the Department Director and staff for their cooperation in this inquiry. The Committee concluded that under the current unusual circumstances, the staff is working diligently to protect and preserve the investment in parks and streetscapes that have been made over many years.

RECOMMENDATIONS:

- R1. Utilizing Department staff, personnel from other departments, and appropriate outside assistance, the City should immediately identify parks and streetscape vegetation that will survive and that which cannot be saved. The City should formulate and implement an emergency plan to maximize the retention of these important resources. General Fund monies should immediately be made available for additional staff and equipment as needed.
(Findings F1, F2, and F3)
- R2. The City should examine the three day a week watering mandate for parks and streetscapes. Additional watering days would allow staff the latitude to find water savings and create more efficient watering patterns without impacting water pressure in surrounding areas. (Findings F4 and F5)
- R3. Until the Master Plan can be updated, the City should prepare a plan with objectives that focus resources, including increased staff, equipment, and contractors in areas in which they will do the most good to retain and nurture

the maximum amount of City-owned landscape. General Fund monies should be made available to implement the plan in the annual budget cycle. (Findings F1, F2, and F3)

- R4. Within two years, the Master Plan should be updated by City staff and, if required, a consultant, to include a much expanded focus on public landscaping in time of drought. This should include revision of the City Subdivision and Engineering Design Manual Standards for Landscaping applicable to development proposals. The update should contain an emphasis on drought resistant plants and hardscape in appropriate areas. General Fund monies should be made available for this planning process. (Findings F1, F2, F3, F4, F5, F6 and F7)
- R5. Through a GIS system, the Department should document the trees and other streetscape that must be maintained by the Department. A grant through Cal Fire, the California Department of Forestry and Fire Protection, may be available to implement such a system. (Findings F8 and F9)
- R6. The Department should explore technology to provide increased efficiency and better documentation of work orders, complaints and responses. Such technology should be purchased when funds become available. (Findings F9 and F10)
- R7. The Department should implement a standardized method to value a tree for insurance claims after damage by an accident. This method should take into account the size, maturity, condition and species, among other factors, of the actual tree which was damaged. *Landscape Tree Appraisal* by Purdue University Department of Horticulture and other methods of calculating tree values should be reviewed for applicability in this context. (Finding F12)
- R8. The Department should initiate dialogue with KHSD and/or neighborhood schools to use facilities for recreation programs across the city. Costs should be paid by General Fund monies or other sources. School Districts could be asked to share the costs. (Findings F13, F14, F15, F16 and F17)

NOTES:


- The City of Bakersfield should post a copy of this report where it will be available for public review.
- Persons wishing to receive an email notification of newly released reports may sign up at: www.co.kern.ca.us/grandjury.
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: www.co.kern.ca.us/grandjury.

RESPONSE REQUIRED WITHIN 90 DAYS

**PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 200
BAKERSFIELD, CA 93301**

**CC: FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301**




B A K E R S F I E L D

DEPARTMENT OF RECREATION & PARKS

DIANNE HOOVER, DIRECTOR



April 4, 2016

Richard Frank, Foreperson
Kern County Grand Jury
1415 Truxtun Avenue, STE 600
Bakersfield, CA 93301

RE: Response to Grand Jury Report

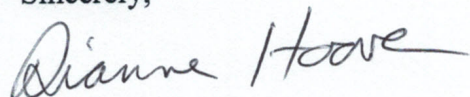
Dear Mr. Frank,

Thank you for the opportunity to respond to the Grand Jury Report regarding the City of Bakersfield, Recreation and Parks Department.

City staff found that the Facts and Findings sections consist of true statements of the operations, budget, and facilities; however, the Recommendations section is a concern, especially in consideration of the City's current budget forecast and State-mandated water restrictions.

As requested, City staff formally had City Council review and approve a response to the Grand Jury Report dated December 7, 2015. Please see the attached documentation. Thank you.

Sincerely,



Dianne Hoover
Recreation and Parks Director

Cc: Alan Tandy, City Manager
Richard Iger, Assistant Attorney
Christopher Gerry, Administrative Analyst

**City of Bakersfield
Grand Jury Report Response**

The responses below correlate to the lettering system and recommendations identified in the Grand Jury Report dated December 7, 2015.

R1. Utilizing Department staff, personnel from other departments, and appropriate outside assistance, the City should immediately identify parks and streetscape vegetation that will survive and that which cannot be saved. The City should formulate and implement an emergency plan to maximize the retention of these important resources. General Fund monies should be immediately be made available for additional staff and equipment as needed. (Findings F1, F2, and F3)

City of Bakersfield (City) staff previously identified over 1,000 trees that needed to be removed for various reasons. A further evaluation by the City's tree contractor and City staff identified approximately 500 more trees for future removal; these trees are in process of being removed. Other plants and shrubs are removed (as needed) and replaced according to funds available. City staff is currently reviewing the General Fund for additional cuts due to lower than projected sales tax receipts; therefore, additional funding from the General Fund is unlikely at this moment.

R2. The City should examine the three day a week watering mandate for parks and streetscapes. Additional watering days would allow staff the latitude to find water savings and create more efficient patterns without impacting water pressure in surrounding areas. (Findings F4 and F5)

The City has continually attempted to meet the watering restrictions mandated by the State of California. In attempting to meet State requirements, the City Council enacted an ordinance to restrict watering to three days a week. The ordinance is consistent with various jurisdictions throughout the State of California. Please note that the City is subjected to the highest watering restriction tier with a 36% reduction target. Increasing the City's water usage makes it extremely difficult to meet the reduction target.

To avoid overloading the water purveyor system, City staff uses the odd/even addresses of parks to determine which three days that a given park receives water. The medians and streetscapes are watered three days each week by north/south streets receiving water on Sundays, Wednesdays, and Fridays and east/west streets on Tuesdays, Thursdays, and Saturdays. Watering on Mondays is restricted.

Finally, the creation of a separate standard between the City and the general public sets a bad precedent, especially considering the City is one of the largest water users in our boundary.

R3. Until the Master Plan can be updated, the City should prepare a plan with objectives that focus of resources, including increased staff, equipment, and contractors in areas in which they will do the most good to retain and nurture the maximum amount of City-owned landscape. General Fund monies should be made available to implement the plan in the annual budget cycle. (Findings F1, F2, and F3)

During preparation of the next budget cycle for Fiscal Year 2016-2017, City staff will identify areas of greatest need for restoration plantings and request a budget appropriation. Also, maintenance district funds can be appropriated to improvements that enhance landscaping. However, City staff forecast stagnant sales tax receipts for Fiscal Year 2016-2017. City staff believes much of the negative trending can be attributed to the supply issues plaguing the oil industry. Local oil-related development and exploration activities remain at 12-month lows, oil company layoff notices are becoming more frequent, and the price per barrel of oil is around 60% lower than last year. The result is less business and consumer spending on taxable goods and services within the city.

R4. Within two years, the Master Plan should be updated by City staff and, if required, a consultant, to include a much expanded focus on public landscaping in time of drought. This should include revision of the City Subdivision and Engineering Design Manual Standards for Landscaping applicable to development proposals. The update should contain an emphasis on drought resistant plants and hardscapes in appropriate areas. General Fund monies should be made available for this planting process. (Findings F1, F2, F3, F4, F5, F6, and F7)

In preparation of developing a new Master Plan, the City is continuously evaluating its services through annual standards updates required by the Commission for Accreditation of Park and Recreation Agencies (CAPRA). Once an agency has met CAPRA standards, it must meet annual review criteria in assessing quality of operation, management, and service to the community; therefore, the City is continually improving its parks and recreational programs annually.

Also, City staff is currently working with professors from the California State University, Bakersfield, to provide assistance with updating the Master Plan. As a class assignment, students are developing and conducting community surveys on recreation and park usage, satisfaction levels, and willingness to pay for parks and activities. In addition, a new section of the updated Master Plan will address drought management.

Finally, the Subdivision and Design Review Manual is currently under review in draft format and anticipated for adoption in summer 2016. The manual (specifically, "Division Seven Landscaping") contains several updates that reflect drought-related standards and specifications.

R5. Through a GIS system, the Department should document the trees and other streetscape that must be maintained by the Department. A grant through Cal Fire, the California Department of Forestry and Fire Protection, may be available to implement such a system. (Findings F8 and F9)

The City is familiar with various tree inventory software systems. These complete tree inventories include using a GIS system to map and locate each tree and further identify them by species, current size, age, and condition. City staff will apply for a complete tree inventory system as grant funding is made available. Please note that an effective tree inventory system monitors when a tree is trimmed, removed, replaced, or damaged. Once a tree inventory is complete, the result would be an accurate assessment of the true value and nature of the tree canopy within the city. However, managing such a database is labor intensive and requires training and adherence to constantly updating the status of each tree throughout the year.

R6. The Department should explore technology to provide increased efficiency and better documentation of work orders, complaints, and responses. Such technology should be purchased when funds become available. (Findings F9 and F10)


The City continuously works with other departments and divisions, including Information Technology and Public Works, to upgrade the work order system that is integrated throughout our operations. City staff will evaluate its current complaint response system and implement a standard reporting process as budget and time allows.

R7. The Department should implement a standardized method to value a tree for insurance claims after damage by an accident. This method should take into account the size, maturity, condition and species, among other factors, of the actual tree which was damaged. *Landscape Tree Appraisal* by Purdue University of Department of Horticulture and other methods of calculating tree values should be reviewed for applicability in this context. (Finding F12).

Trying to put an actual value to trees that has been destroyed through accidental causes is difficult at best. As stated in the recommendations, there are various methods of assigning dollar values to trees and each one could be litigated in a court of law. The current practice of recouping actual costs of the replacement tree is consistent and justifiable. Maneuvering a mature tree through city streets is hazardous to traffic conditions and nearly impossible to place into an existing spot. In addition, the survival rate of planting a mature tree is extremely low, especially given this region's climate. Nursery grown trees in 15 to 24 inch boxes generally thrive and are healthier overall than transplanted mature trees. The actual cost of replacing trees with healthy nursery stock is an acceptable practice and justifiable through insurance companies.

R8. The Department should initiate dialogue with KHSD and/or neighborhood schools to use facilities for recreation programs across the city. Costs should be paid by General Fund monies or other sources. School Districts could be asked to share the costs. (Findings F13, F14, F15, F16, and F17)

City staff has discussed with the Kern High School District and Bakersfield City School District about joint use agreements at school facilities. Many of the City's recreational programs available conflict with existing afterschool activities. These additional programs would increase the need for more full-time and part-time City staff, equipment, supplies, insurance, security, and rental fees required by the school districts. Given the City's current budget conditions, it is unlikely that this recommendation is feasible in the immediate future. However, City staff will keep an open dialogue with school districts to seek partnership opportunities.


ROBERTA GAFFORD, CMC
CITY CLERK and Ex-Officio Clerk of the
Council of the City of Bakersfield

CITY OF DELANO

Celebrating a Century, Planning for the Future

SUMMARY:

Beginning as a railroad town, surrounded by agriculture, having a major impact on the farm labor movement, Delano, the second largest incorporated city in Kern County, is transitioning to an industrial player in the region. How this is being accomplished is the subject of this 2015-2016 Grand Jury Report.

PURPOSE OF INQUIRY:

Pursuant to Penal Code §925a, the Cities and Joint Powers Committee (Committee) of the 2015-2016 Kern County Grand Jury (Grand Jury) inquired into the operation and management of the City of Delano (City).

PROCESS:

The Committee interviewed the City Manager, Police Chief, Director of Public Works, the City Clerk, City Council members and other staff. The Committee was given a tour of various improvement projects by the Director of Public Works and toured the new Police Station with the Police Chief. A review of minutes and agendas was also conducted. The City website and internet resources were reviewed for relevant information.

BACKGROUND:

Delano was founded on July 14, 1869 as a railroad town. The name was officially given by the Southern Pacific Railroad in honor of Columbus Delano, the United States Secretary of the Interior. The first Post office opened in 1874. Delano, incorporated in 1915, began celebrating its 100 year anniversary in January, 2015, with the Centennial Gala followed by golf tournaments, birthday parties and music festivals in later months.

Delano was a major hub of farm worker organization efforts and Chicano movement politics. In September 1965, Filipino leaders led the predominantly Filipino Agricultural Workers Organizing Committee in a "walk off" from table grape farms. The National Farm Workers' Association, a largely Hispanic union led by Cesar Chavez, joined the strike within a week. During the strike, the two groups joined forces and formed the United Farm Workers of America (UFW). A celebration was conducted on September 26, 2015, in recognition of the fifty-year anniversary of the strike.

For many years, as people traveled through the central valley, the blinking red lights off in the distance was a landmark. The Voice of America Broadcast Station (VOA) in Delano was the first external transmitting shortwave broadcast station and the beginning of this nation's ability to broadcast around the globe.

Founded in 1942, VOA began transmitting short-wave radio programs in 1943, providing as its charter states, *“VOA news will be accurate, objective and comprehensive.”* The broadcast was done in English and other languages. A 1976 Federal law required that the VOA serve as a consistently reliable and authoritative news source. During World War II the military enjoyed VOA as a touch of home when they were overseas.

The last remaining WWII shortwave transmitting station, VOA Delano, operated from 1943 until officially closed on March 10, 2007. In 2014 it was placed on the U. S. General Services Administration (GSA) excess property disposal list.

The population of Delano, according to the State of California Department of Finance, is 52,222 including an inmate population of 8,465 housed in the California Department of Corrections and Rehabilitation facilities. The City has a diverse population mix due to its agricultural background. Major ethnic groups within the City are Hispanic, Filipino, Asian and Caucasian.

In November, 2007, Delano voters approved Measure I, a 1% sales tax increase which became effective in April, 2008. The additional revenue generated by the tax is applied to the City’s General Fund and used to fund capital improvements, equipment, and many programs throughout the community. This additional revenue in 2014-2015 was \$5,533,823. This measure is due to expire in April, 2018 so the City Council has taken steps to seek a continuation for an additional 10 years. On the 2016 ballot this will be designated as Measure A.

Throughout the last decade the City has attempted to stimulate commercial growth. Investors were recruited for a major retail project in the southwest portion of the city. Phase I has seen WalMart, Ross Dress for Less and other similar or smaller retail stores opening in the 90% completed Delano Market Place Shopping Center. Phase II, The Grapevine, will consist of 42 acres of mixed use with commercial development and multi-family residential. Construction is beginning with an estimated completion date of spring, 2016. Phase III, The West Pavilion, consists of 77 acres of mixed use with commercial/retail development, multi-family and single family residences. This project's Environmental Impact Report is currently in circulation.

Complementing this growth are emerging industrialization efforts. The Wonderful Company (formerly Paramount Farms) has a major processing plant and expansion is possible. Sears Logistics Services, employing 220, is a major part of the industrialization. The City is actively recruiting commercial operations to bring their facilities into the community. According to the State of California Employment Development Department, the current unemployment rate for the City is 11.9%. In 2010, the unemployment rate was 37.8%. The City’s economic growth has definitely improved employment.

FINDINGS:

- F1. While reviewing California Fair Political Practices Commission (FPPC) compliance, the Committee noticed that a City Council member had failed to report a 2010 trip to China in support of the City and future development on California Form 700, "Statement of Economic Interests". As further inquiry was made, it became apparent that the cost was covered by the developer. Gifts, including travel, exceeding \$50 must be reported by the recipient on Form 700. Although the Grand Jury was not able to determine the cost of the travel, it definitely exceeded the gift limits established by the FPPC. These limits increase over time, but the 2015 limit is \$460 from any one source.
- F2. The Ralph M. Brown Act (Brown Act) requirements have been met by the Council members and other City staff. Minutes and agendas are posted at City of Delano Administration Building and on the City website.
- F3. The California National Guard Armory (Armory) at 725 South Lexington Street is located adjacent to the City Corporation Yard and has been deeded to the City. The available office space is being utilized by City Engineering/Public Works Division staff. Further expansion as a repair facility has been proposed.
- F4. At present, the Armory is available for the use of individuals or groups subject to the issuance of a permit and payment of all fees. Reservations are taken for any date that has not been reserved.
- F5. Upon visit to the Armory, the Committee learned that the Armory had not been tested for the presence of hazardous asbestos.
- F6. The Community Center in the City was destroyed by fire. A new Community Center project has begun. Once completed, the Armory will then be available for other uses.
- F7. Industrial development continues to build around and close to the Delano Municipal Airport.
- F8. The VOA buildings and radio equipment may be eligible for the National Register of Historic Places. The City of Delano is very much interested in having the VOA property designated a historical site. It is the City's hope that such distinction would serve as a reminder to all who visit the site of the role that the VOA served around the world and that the City is very proud of the fact that it was located in Delano.
- F9. From 1943 to 2007, VOA utilized an 800 acre site located west of Delano as a shortwave broadcast facility. The City has submitted an Application of Interest to the GSA for acquisition of the VOA property. The City could consider asking its Congressional Representatives to expedite the VOA acquisition process.

COMMENTS:

The 2015-2016 Kern County Grand Jury would like to thank the City of Delano staff for their cooperation in providing information for this report. The Cities and Joint Powers Committee was impressed with the proactive attitude displayed by City staff.

RECOMMENDATIONS:

- R1. City Council members and management staff should be instructed in all FPPC and Brown Act requirements. Form 700 requirements should be emphasized during each reporting cycle so that designated officials file all forms in complete and appropriate detail. (Findings F1 and F2)
- R2. The conversion of the Armory to a vehicle and equipment repair facility should proceed as expeditiously as possible as an addition to the adjacent City Corporation Yard. The facility should be tested immediately for hazardous asbestos and should be remediated if required. General Fund monies should be made available for these purposes. (Findings F3, F4, F5 and F6)
- R3. The City should study the feasibility of relocating the municipal airport to allow for industrial expansion. (Finding F7)
- R4. The City should determine whether or not the VOA buildings and radio equipment are eligible to be placed on the National Register of Historic Places. The California Office of Historic Preservation should be contacted to aid in this determination. Grants could possibly be obtained to repurpose the building(s) and its remaining equipment as a museum. (Finding F8)
- R5. The City should monitor and expedite progress concerning the transfer of the VOA property to the City. (Finding F9)

NOTES:

- The City of Delano should post a copy of this report where it will be available for public review.
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RESPONSE REQUIRED WITHIN 90 DAYS

**PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301**

**CC: FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301**



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COUNCIL MEMBERS

Ricardo G. Chavez
MAYOR

Ruben "Ruby" Hill
MAYOR PRO TEM

Rueben Pascual
Liz Morris
Grace Vallejo

Maribel G. Reyna
CITY MANAGER

March 21, 2016

Presiding Judge
Kern County Superior Court
1415 Truxtun Avenue, Suite 212
Bakersfield, CA 93301

Foreperson
Kern County Grand Jury
1415 Truxtun Avenue, Suite 600
Bakersfield, CA 93301

Pursuant to Section 933.05 CPC, the City of Delano hereby submits the following response to the 2015-2016 Grand Jury Report dated November 17, 2015 entitled City of Delano – Celebrating a Century, Planning for the Future.

Recommendation R1.

City Council members and management staff should be instructed in all FPPC and Brown Act requirements. Form 700 requirements should be emphasized during each reporting cycle so that designated officials file all forms in complete and appropriate detail. (Findings F1 and F2)

Response

The City takes no position. The event referenced took place six (6) years ago. Staff accepts the Form 700 and reviews for completeness but is not responsible for the content nor accuracy of the information included.

Recommendation R2.

The conversion of the Armory to a vehicle and equipment repair facility should proceed as expeditiously as possible as an addition to the adjacent City Corporation Yard. The facility should be tested immediately for hazardous asbestos and should be remediated if required. General Fund monies should be made available for these purposes. (Findings F3, F4, F5, and F6)

Response

Respondent City agrees with this finding.

Recommendation R3.

The City should study the feasibility of relocating the municipal airport to allow for industrial expansion. (Finding F7)

Response

Respondent City agrees with this finding.

Recommendation R4.

The City should determine whether or not the VOA buildings and radio equipment are eligible to be placed on the National Register of Historic Places. The California Office of Historic Preservation should be contacted to aid in this determination. Grants could possibly be obtained to repurpose the building(s) and its remaining equipment as a museum. (Finding F8)

Response

Respondent City agrees with this finding.


Recommendation R5.

The City should monitor and expedite progress concerning the transfer of the VOA property to the City. (Finding F9)

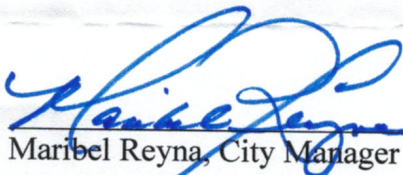
Response

Respondent City has no reason to dispute this finding.

Very sincerely yours,



Ricardo G. Chavez, Mayor



Maribel Reyna, City Manager

HIDDEN GOVERNMENTS

Joint Powers Authorities in California

“Governments are instituted among men, deriving their just powers from the consent of the governed.” - Declaration of Independence, July 4, 1776, approved by the Second Continental Congress.

SUMMARY:

There is a form of government in California called a Joint Powers Authority, or JPA. A JPA is formed by the agreement of two or more agencies including cities, county, special districts and others to carry out services common to each. In Kern County, these agencies have created or joined more than 25 such governments, but most people are not aware of even a single Joint Powers Authority.

The 2015-2016 Kern County Grand Jury (Grand Jury) inquired into the operation of Joint Powers Authorities. The typical JPA has an appointed board that may hold infrequent meetings. The authority office where public records are kept may be difficult to locate. For these and other reasons, the Grand Jury found it difficult to compile a complete list of JPAs and determine if they are complying with state law and local agreements. By their nature, these are “hidden governments”.

The Declaration of Independence includes a long list of “*repeated injuries*” to the population of the 13 American Colonies. Among the complaints are that the agents of the King denied people the right of representation in legislatures and they held meetings in places faraway and inaccessible to public records. For the Grand Jury, like the Continental Congress, if a government is not representative, freely accessed and transparent, the “*just powers from the consent of the governed*” cannot be obtained.

The Grand Jury would like to see that steps are taken to ensure that the existence and operations of Joint Powers Authorities in California are transparent, accessible, accountable and limited.

PURPOSE OF THE INQUIRY:

California Penal Code §925a states: “*The grand jury may at any time examine the books and records of any incorporated city or joint powers agency located in the county.*” The Grand Jury decided to assemble a list of joint powers authorities and to inquire into the operation of several such authorities.

PROCESS:

The 2010-2011 Kern County Grand Jury issued a report titled, “Joint Powers Agreements and Memorandums of Understanding” (MOU). The report stated, “*The fifteen government agencies contacted reported a total of 230 JPAs and MOUs in Kern County.*”

With that background, the Grand Jury sent a letter to the County, each of the 11 incorporated cities in the County, the Kern County Superintendent of Schools, and KernCOG. The letters requested information on their JPAs, purposes, expiration date, and date of the last audit. Respondents did not uniformly understand the scope of the request. Follow-up with several agencies was required in an attempt to fill in gaps. The Grand Jury also interviewed several JPA board members.

The California Secretary of State and the State Controller were asked to furnish information on JPAs. The County office of the Local Agency Formation Commission (LAFCo) was contacted as well as staff of the California Senate Local Government Committee. After review of these sources, it became clear that it was not possible to assemble a definitive list of JPAs formed or joined by agencies in Kern County.

When a joint powers authority is not readily identifiable, has no office and board members are difficult to identify, then a grand jury cannot examine the authority’s books and records as authorized by the California Penal Code. An interested citizen would have an even more difficult time in making an inquiry into such an agency.

The Grand Jury concluded that these are “hidden governments” that can pose risks. The Ralph M. Brown Act states, “*The people insist on remaining informed to retain control over the legislative bodies they have created*”. Given these insights, the Grand Jury’s focus changed to an examination of the reasons that Joint Powers Authorities are hard to identify and investigate. The Grand Jury then assembled recommendations to improve transparency of these government agencies.

BACKGROUND:

The publication, *Governments Working Together, A Citizen’s Guide to Joint Powers Agreements*, describes Joint Powers Agreements and Joint Powers Authorities.

The Joint Exercise of Powers Act in California Government Code §6500, et. seq. allows the public boards of two or more agencies to create another legal entity or establish a joint approach to work on a common problem, fund a project, or act as an agent for a specific activity.

Agencies that can exercise joint powers include federal agencies, state departments, counties, cities, special districts, school districts, redevelopment successor agencies, and even other joint powers organizations. A California government agency can even share joint powers with an agency in another state.

The publication cited above states, *“A joint powers agreement is so flexible that it can apply to almost any situation that benefits from public agencies’ cooperation.”* The same publication also states, *“JPAs are different from other forms of government because they are the only type of government formed by mutual agreement. Unlike other governments, JPAs are not formed by signatures on petitions and they’re not approved by a vote of the people. Public agencies create JPAs voluntarily.”*

When a new authority is formed, there are several requirements:

- The agency, within 30 days after the effective date of the agreement, must file a notice with the office of the California Secretary of State. The notice contains the name of each agency that is a party to the agreement, the effective date and a statement of purpose or the power to be exercised
- An additional copy is forwarded to the office of the State Controller
- Audits are to be filed as public records with each of the contracting parties and filed with the county auditor of the county where the home office is located. Any public agency or person can request a copy of the audit
- Public agency laws apply to joint powers authorities, including the California Public Records Act, the Ralph M. Brown Act, and the Political Reform Act of 1974

Created in 1985, the Marks-Roos Local Bond Pooling Act (Marks-Roos) permits local government agencies to fund working capital, for projects that would provide significant benefits to the public. Marks-Roos allows local agencies, through joint powers authorities, to issue bonds to finance projects. A JPA that is involved in the issuance of debt may be referred to as a public financing authority. Elected officials from the local agencies often compose the appointed governing boards of the JPAs. A board member is generally responsible for administrative activities, such as authorizing payments and keeping accounting records.

Of particular note, Government Code §6587 states: *“The issuance of bonds, financing, or refinancing under this article need not comply with the requirements of any other state laws applicable to the issuance of bonds, including, but not limited to, other articles of this chapter.”* The phrase, “need not comply”, allows flexibility for a joint powers authority to undertake services and construction projects that would not otherwise be possible.

Examples of JPA services include:

- groundwater management
- road construction
- habitat conservation
- airport expansion
- insurance coverage
- regional transportation projects
- bond issuance for project funding
- establishing regulatory authority

The JPA acronym can mean different things. A brief explanation may help remove confusion.

- **Joint Powers Agreement** – The written document outlining the purpose, terms and other legal aspects of the venture (contract). If a new board is formed, registration with the Secretary of State is required
- **Joint Powers Agency** – An entity created by agreement that is completely separate from the member agencies
- **Joint Powers Authority** – An entity created by agreement; often used interchangeably with agency. Frequently used when the entity is used in the issuing of bonds under the Mark-Roos Act

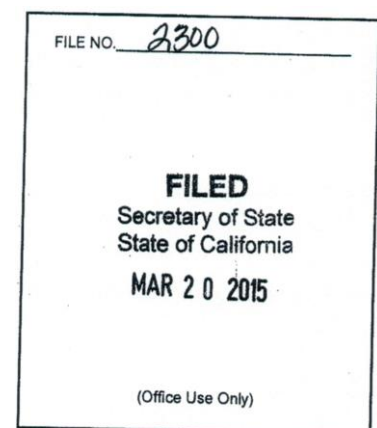
The Grand Jury sent letters to the County, the incorporated cities in the County, the Kern County Superintendent of Schools, and KernCOG requesting information on their JPAs. Interesting perspectives revealed by the responses include:

- One well-known entity, KernCOG, is a joint powers authority but was not cited as a JPA. Several respondents, who are members of KernCOG, indicated they had no current JPAs
- Many cities form single purpose public authorities to issue bonds and carry out projects. These entities are formed by a single entity, the city. Since there is not “joint exercise of power”, these are not JPAs. However, a number of cities classified such authorities as JPAs
- Respondents also listed Memorandums of Understanding and other agreements as JPAs
- It is possible for JPAs to become a common part of the community and overlooked
- Confusion surrounds JPAs

The response to the 2010-2011 Kern County Grand Jury report recommendations was mixed, giving evidence that JPAs are misunderstood or not recognized.

An email was sent to the California Secretary of State, Special Filings Division (Division), requesting the filing status of JPAs created or joined by the County of Kern. While processing the request, Division staff stated:

- Because of variations in JPA titles, it is difficult to be precise in providing the requested information
- Newly formed JPAs submit form Sec/State 404A, “Notice of a Joint Powers Agreement”
- Upon approval, JPAs are assigned a file number which is placed on the form and returned to the filer (see exhibit)
- Amendments to a JPA must cite the file number
- The file number can be made public and used to access JPA information at the State



LOCAL JOINT POWERS AUTHORITIES

The Grand Jury attempted to assemble a list of authorities created or joined by government agencies in Kern County. The focus was on Joint Powers Authorities that have a separate board. The Grand Jury examined agreements to make determinations about specific JPAs.

As noted above, the Secretary of State Special Filings Division was asked to determine if those local joint powers authorities had filed the required notice with that office. The Division responded with the following information:

- The Division identified eleven JPAs that had filed required paperwork and been assigned a file number
- Another eight were found under a slightly different name
- Thirteen agencies were determined to be “Not of Record”

The chart that follows gives the results of the Grand Jury examination of agreements augmented by data from the Special Filings Division. Those agencies listed without a JP number are “Not of Record” with the Division.

Joint Powers Authorities Created or Joined in Kern County
<p>Cities cited the following:</p> <ul style="list-style-type: none"> • City of McFarland - McFarland Tri-Agency Partners (JP 2300) • City of Ridgecrest - CSAC Insurance Authority (JP 493) • City of Shafter - Kern Groundwater Authority (JP 2278), and Shafter Joint Powers Financing Authority • City of Tehachapi – Associate Member of Western Riverside Council of Governments (JP 1884) and the California Statewide Communities Development (JP 2201) • Other cities cited no JPAs which they have formed or joined or they incorrectly characterized agreements as forming an authority
<p>Kern County Superintendent of Schools cited the following:</p> <ul style="list-style-type: none"> • Self-Insured Schools of California Health SISC I -Workers' Compensation (cited as Self-Insurance Program for Workers Compensation, JP 371) • Self-Insured Schools of California Health SISC II - Liability and Property (cited as Self-Insurance Schools of Kern Liability & Property System, JP 498) • Self-Insured Schools of California Health SISC III - Medical, Dental and Vision • Agreement for Legal Service (Schools Legal Service) • School District Facilities Services JPA • Kern County Child and Family Services Agency

<p>The Grand Jury did not request information from Special Districts, but did identify one JPA formed by such a District, the Central California Tristeza Eradication Agency</p>
<p>The County reported that it had created or joined several joint powers authorities. The Grand Jury reviewed County agreements to assemble a more complete JPA list:</p> <ul style="list-style-type: none"> • KernCOG (cited as Kern Council of Governments, JP 616) • Tobacco Settlement Joint Powers Authority (California County Tobacco Securitization Agency, JP 1734) • QuadState Local Governments Authority (cited as Quadstate County Government Coalition, JP 1683) • Kern Child and Family Services Agency • Kern Public Services Financing Authority (JP 1748) • CSAC Excess Insurance Authority (JP 493) • Tejon Ranch Public Facilities Financing Authority (JP 1696) • Greater Taft Economic Development Authority • San Joaquin Valleywide Air Pollution Study Agency • San Joaquin Valley Air Pollution Control District • California Electronic Recording Transaction Network Authority • Joint Exercise of Powers Agreement with Tejon-Castaic Water District • Central Valley Immunization Information System • Kern Groundwater Authority (JP 2278) • California Mental Health Services Authority (JP 2105) • Kern, Inyo, and Mono Counties Workforce Investment Board • The Metropolitan Bakersfield Habitat Conservation Plan Implementation Trust Group (JP 1414) • California Statewide Automated Welfare System Consortium IV (JP 1651) <p>The County joined these agencies as an Associate Member:</p> <ul style="list-style-type: none"> • Western Riverside Council of Governments (JP 1884) • San Joaquin Valley Library System Joint Powers Agreement • California Enterprise Development Authority • California Rural Home Mortgage Finance Authority

REPRESENTATIVE LOCAL JPAs

The Grand Jury researched JPAs formed by various agencies within Kern County to understand how JPAs are utilized. The chart below shows four examples.

Central California Tristeza Eradication Agency
The agency was formed in 1963 by the Kern County Citrus Pest Control District and two similar districts in Fresno and Tulare Counties to cooperatively combat a specific citrus pest in the three counties
Agency facilities and records are maintained at an office in Tulare County
The agency is managed, controlled and directed by a Board of Commissioners appointed by the member districts
Board of Commissioners must meet as established by agency bylaws and comply with public agency laws
McFarland Tri-Agency Partners (MTAP)
MTAP was formed in 2014 by the City of McFarland, the McFarland Unified School District and the McFarland Recreation and Parks District
The stated purpose of the agency is <i>“To promote projects to improve the general welfare of the community within the City of McFarland”</i>
MTAP, still in its infancy, has no funds, budget or office
By agreement, each member agency names two members of their legislative body as MTAP Directors and one member is selected from the community by the appointed Board
The Executive Director is elected by the MTAP Board and must be the Executive of one of the member agencies
The Board currently meets once a month
Eventually the agency may fund selected projects by issuing bonds
The agency must comply with public agency laws

The Operation of a Common Risk Management and Insurance Program
Formed by the Kern County Superintendent of Schools and various school districts in 1979 for employee's medical coverage. Has progressed to three separate agencies to include several types of risk management
Known as Self-Insured Schools of California and commonly referred to as SISC
Stated purpose is, "...operating an agency to maintain a self-insured program..."
Beginning with medical, dental and vision insurance for school employees, this same type of agreement has expanded into liability, property and workers compensation risk management systems
The three agencies are under the direction and control of separate governing boards each consisting of eleven members elected as prescribed in the bylaws
Boards are required to meet monthly and comply with public agency law
Tejon Ranch Public Facilities Financing Authority
Formed in 1999 by the County of Kern and the Tejon-Castaic Water District
Stated purpose is, "...establishing an entity which can assist in providing financing for public capital improvements in the Tejon Ranch area of the County..."
The authority is governed by a five member Board of Directors, three appointed by the Kern County Board of Supervisors and two by the Board of Directors of the Tejon-Castaic Water District
The Board is required to have a minimum of one meeting a year and must comply with public agency laws
The original authorizing agreement established a bond debt ceiling of \$40,000,000. An amendment in 2008 raised the ceiling to \$160,000,000
The most recent Bond issue was for approximately \$40.5 million

These JPAs reflect types that are used locally and throughout California. Although the true number of JPAs is unknown, according to information received by the Grand Jury, there were over eighteen hundred JPAs as filed with the Secretary of State. The JPAs ranged from simple agreements between two small entities to complex agreements involving multiple entities from all levels of government.

SPECIAL DISTRICTS vs. JOINT POWERS AUTHORITIES

People are familiar with cities and counties. In California, everyone lives in a county and most live in a city. Special Districts, a form of elected government, provide residents with services such as potable water or fire protection. Cities, counties and special districts are accessible and accountable through attendance at public meetings and visits to a local office.

Joint Powers Authorities can perform services for people, however, they are not elected or accessible to the public. The following chart compares the two forms of government:

Special Districts	Joint Powers Authorities
Formed by vote of constituents	Formed by agreement between two or more agencies
Requires a LAFCo review and approval process	No third-party review process
Governed by board elected by constituents	Governed by board appointed by member agencies
Agency office or facilities located in community with contact information	Agency office, if any, is often hard to locate
Boards often meet monthly	Boards may meet infrequently
Board members have presence in the community	Board members unknown or not present in the community
Provides services granted by electorate and approved through the LAFCo review process	Services are those included in the common powers of the member agencies
	Bond funds can be used for additional services including construction projects which are not in the common powers of the member agencies

Fee or tax increases require voter approval	Increased operating costs approved by board action of member agencies
Must abide by applicable state codes	Must abide by forming agreement and applicable state codes
Regulations generally are clear and distinct	Regulations relating to issuing of bonds are not clearly stated, and therefore, subject to interpretation
Must abide by Ralph M Brown Act, Fair Political Practices Commission and Public Records Act	Must abide by Ralph M Brown Act, Fair Political Practices Commission and Public Records Act

OBSERVATIONS BY OTHERS

Grand Jury research indicates that there are statewide concerns about joint powers governments. The following examples show the range of issues:

- The 2011/2012 Marin County Civil Grand Jury published a report entitled “Pre-Schoolers Learn to Share - Can Local Governments?” On June 2, 2012, the Pacific Sun News published an article entitled “*Sixty-four agencies and counting, reports ‘bewildered’ grand jury*”. The article stated, “*...the Marin Civil Grand Jury launched an investigation into the number of local government agencies that exist in the county—and they were baffled by what they discovered: no one really knows.*”

The article goes on to say, “*Due to the rise of special districts and joint-powers authorities over the years, the numbers are murky at best – and no one’s keeping an exact tally. The phone book lists about 30; the County Tax Collector’s office doesn’t know—but they know of 153 “taxing entities” who add charges to our tax bills...The Local Agency Formation Commission knows of about 64 agencies but, according to LAFCo officials, that list is not definitive.*”

- On August 14, 2013, the Marin Independent Journal published an article entitled “Marin Voice: Silencing the voice of the people”. In discussing a plan for the San Francisco Bay area, the article stated, “*In the discussion over the problems and promises of Plan Bay Area, one aspect of the debate was overlooked. The vote to approve Plan Bay Area was taken by a JPA – the Association of Bay Area Governments (ABAG)*”.

The article goes on to say, “*The back-room power that is accumulating in groups like ABAG undermines local control. With ABAG we get a group of city and county elected officials attending public-private meetings alongside agencies that have alliances with corporations, developers, non-governmental organizations and government agencies.*”

The article concluded, “JPAs like ABAG and SCIA [Sustainable Communities Investment Authority] cloud – no, close the window of government transparency. The public is left uninformed, and awareness and commitment to the common good is eroded.”

- 2014-2015 Orange County Grand Jury, Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency. The report stated, “*State statutes authorize legal entities, such as cities, counties, school districts, or special districts to set up JPAs. These statutes give significant authority and latitude to these entities. As a result, many of these legal entities appear to set up JPAs which comply with the spirit of the law to provide financial benefit to the taxpayers. However, other JPAs may provide a legal means to avoid voter approval of debt decisions and to potentially mask financial accountability. This latter case is of significant concern since it is not in the best interest of taxpayers and does not provide for full transparency*”.
- AB 2156, was introduced by Assembly Member K. H. Achadjian, and signed into law on June 4, 2014. California Association of Local Agency Formation Commissions (CALAFCO), letter of May 27, 2014 to Governor Brown concerning “Request to Sign AB 2156, Local Agency Formation Commissions: Studies” states, “*Pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, LAFCOs are charged with evaluating the provisions of municipal services and to conduct studies of existing governmental agencies including their service area and service capacities. As many local agencies across the state are providing municipal services through JPAs, having access to the information that outlines service areas and specific services being delivered by these entities is critical to conducting comprehensive studies that support LAFCOs’ core mission of encouraging the efficient delivery of local services and evaluating local agency boundaries.*” The local LAFCo staff has knowledge of this legislation but stated that they have no money for studies and no power to take action based on the conclusions of such studies.

BENEFITS AND RISKS

The Grand Jury found that joint powers agreements create “hidden governments” that provide benefits, as well as high risks. Important aspects are:

Benefits of JPAs

- Easy to form
- Flexible
- Efficient
- Cooperate on regional solutions
- Help find grants

Risks of Hidden Governments

- No direct voter control
- Modification or dissolution requires cooperation
- Original purpose could become obscured
- Private interests could control government functions
- No local or regional oversight
- Incurring debt without public knowledge
- Malfeasance (a wrongful or illegal act while in office)
- Misfeasance (the performance of a lawful act in an unlawful manner)
- Nonfeasance (the failure to perform a duty imposed by the law)

FINDINGS:

Government Code §54950 of the Ralph M. Brown Act states: *“Public commissions, boards, councils and other legislative bodies of local government agencies exist to aid in the conduct of the people’s business. The people do not yield their sovereignty to the bodies that serve them. The people insist on remaining informed to retain control over the legislative bodies they have created.”*

In order to retain control over legislative bodies, the Grand Jury suggests that four standards be employed: **transparency, accessibility, accountability and limitations.**

Applying these standards, the following Findings apply to most local Joint Powers Authorities and are applicable to many such authorities across the state:

F1. Transparency

- Joint Powers Authorities are formed with little or no citizen input and without any formal review process
- Public agencies are not always able to identify joint powers authorities which they have created or joined
- Few JPA agencies have an up-to-date website with contact information, agendas, and other pertinent information
- JPA information is not easily accessed
 - Records can be kept in separate locations
 - There is no local registry of authorities created by agreements
 - Required registration records maintained by state agencies are difficult to research
 - File numbers assigned by State agencies to each registration are not used by JPAs or the public to access information
- Public agency law requirements are not readily accessible, including
 - California Fair Political Practices Commission “Statement of Economic Interests” (Form 700)
 - California Public Records Act

- The intent of the Ralph M. Brown Act regarding transparency and openness is not closely followed
- Audits are not always done or available on a website or an office
- Operating costs are reimbursed by member agencies, not by fees or taxes
 - Operating costs are not transparent because only a vote of member agencies is required

F2. Accessibility

- Typically, joint powers authorities do not have an office at a known location
- Board meetings are not held routinely, frequently and openly
- Agendas, minutes and other records may not be consolidated in one location

F3. Accountability

- Names and contact information for appointed board members are not easily found
- Board members and management staff do not always complete and file Form 700
- Audits are not always sent to member agencies or reviewed by accounting staff
- County officials are not notified of those JPAs required to send an audit
 - If notified, county officials may not review audits for compliance
- Not all joint powers authorities file required paperwork with state agencies
- There is not an established procedure to inform record-keeping agencies of a new JPA

F4. Limitations

- Under Marks-Roos, and Government Code §6587, a JPA can sell bonds that can be used for services and/or construction that go beyond the common member agency powers
- A joint powers authority can carry out projects that benefit a private entity with little or no public input or oversight
- Issuing bonds to refinance debt can become a concern
 - Bond debt can outstrip ability to repay
 - Pension shortfalls can be masked by issuing bonds
- In approving the establishment of a joint powers authority, forming agencies do not always understand the authority that is being granted to the new agency
 - Member agencies do not limit the scope of a JPA to their common services
 - Member agencies do not review and renew the scope of the original agreement at agreed intervals
 - The usual agreement has no mechanism for modifying its terms
 - A JPA with no further purpose is not necessarily dissolved

COMMENTS:

In addition to required responses, the Grand Jury will send this report to the offices of the California Secretary of State and the State Controller, the California Senate Local Government Committee, the County office of the Local Agency Formation Commission, CALAFCO, the California Grand Jury Association and other grand juries that might be interested in this subject. Observations by these agencies are not required, but are welcome.

RECOMMENDATIONS:

R1. To improve transparency, accessibility, accountability and limitations, the County, through the Board of Supervisors, and each city council, should request local State representatives to promote reform to the “Joint Exercise of Powers Act” (Government Code §6500 et. seq). (Findings 1, 2, 3, and 4)

These requested reforms should include the following:

- A. Local LAFCos should be authorized to evaluate formation of proposed Joint Powers Authorities in a manner similar to the evaluation of proposed Special Districts.
- B. JPAs should be required to have an up-to-date website with contact information, agendas, location of public records, audits and other pertinent information.
- C. Joint powers authorities should have an office at a known location.
- D. Agendas, minutes and other records should be consolidated in one location that is readily accessible by the public.
- E. Member agencies and JPA should post the names and contact information of appointed board members.
- F. There should be a penalty if required audits are not sent to member agencies for review.
- G. LAFCo should inform State record-keeping agencies and appropriate counties that a new JPA has been established.
- H. The Marks-Roos Act, and California Government Code §6587 should be reviewed to determine if the Act provides appropriate public benefit and oversight and if tighter restrictions should be placed on the issuing of bonds.
- I. If bonds are to be sold by a JPA, each member agency should be required to notify its constituents before considering approval of an authorizing ordinance or resolution.
- J. After such action is taken, there should be a mechanism for the public to petition the member agency to reconsider the issuance of bonds.

R2. Through review of relevant agreements and State Government Codes, the County and each incorporated city should identify all joint powers authorities to which each is a party. (Finding 1)

R3. All public agencies should monitor the joint powers authorities in their jurisdiction including:

- A. JPAs should have up-to-date website with contact information, agendas, names for appointed board members and other pertinent information.
- B. Records should be easily accessed at a central location.
- C. Review compliance with public agency law requirements.
- D. Audits should be reviewed and presented to member boards in public meetings.
- E. Member agencies should review at agreed intervals and, if appropriate, change, renew or dissolve the agreement that established the authority.
- F. At the time of the adoption of its annual budget, all public agencies should list relevant information, including purpose on its agenda. (Findings 1, 2 and 3)

- R4. Grand juries do not have the authority to make recommendations to the State legislature. With that understanding, the 2015-2016 Kern County Grand Jury suggests that the State legislature consider amendments to State law. In addition to reviewing the Findings and Recommendations listed above, the Grand Jury suggests consideration of the following:
- A. State Law should direct LAFCos to evaluate the formation of proposed Joint Powers Authorities in a manner similar to the evaluation of proposed Special Districts.
 - B. JPAs should be required to have an up-to-date website with contact information, agendas, location of public records, audits and other pertinent information.
 - C. State Law should direct State agencies to organize their records so that information on joint powers authorities can be easily accessed by the public online.
 - D. There should be a penalty if required paperwork is not submitted to State agencies and audits are not sent to member agencies for review.
 - E. Marks-Roos, and California Government Code §6587 should be reviewed to determine if the law provides sufficient public benefit and oversight or if tighter restrictions should be placed on the issuing of bonds. (Findings 1, 2, 3 and 4)
- R5. Grand juries do not have the authority to make recommendations to State agencies. With that understanding, the 2015-2016 Kern County Grand Jury suggests that State agencies improve their operations as follows:
- A. The Secretary of State and State Controller should organize their records by jurisdiction, so that joint powers authorities can be easily identified and located by staff and interested parties. These records should be searchable online.
 - B. Records should give information on type of authority, services, and other factors. (Finding 1)

RESPONSES:

The following agencies will be given a copy of this report for their response to Recommendations 1, 2, and 3:

County of Kern Board of Supervisors
City of Arvin
City of Bakersfield
City of California City
City of Delano
City of Maricopa
City of McFarland
City of Ridgecrest
City of Shafter
City of Taft
City of Tehachapi
City of Wasco

The following agency will be given a copy of this report for its response to Recommendation 3:
Kern County Superintendent of Schools

- The respondents should post a copy of this report where it will be available for public review.
- Persons wishing to receive an email notification of newly released reports may sign up
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: www.co.kern.ca.us/grandjury.

**RESPONSE BY ELECTED OFFICIALS REQUIRED WITHIN 60 DAYS,
OTHERS WITHIN 90 DAYS TO:**

**PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 200
BAKERSFIELD, CA 93301**

**CC: FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301**

REFERENCES:

- 2014-2015 Orange County Grand Jury, *Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency*
- Cypher, T. & Grinnell, C., 2007, *Governments Working Together: A Citizen's Guide to Joint Powers Agreements*, California State Legislature, Senate Local Government Committee Report
- *Marks-Roos Bond Act Borrowings: Several Cities Misused the Program and Some Financed Risky Projects Which May Result in Investor Losses*, September 1998, California State Auditor Bureau of State Audits
- *LAFCOs and Joint Power Authorities: Defining a Relationship That Makes Sense*, A presentation at the October 2014 CALAFCO Conference, Ken Lee, Moderator.
- *A REVIEW OF THE MARKS-ROOS Local Bond Pooling Act of 1985*, September 1998, California Debt and Investment Advisory Commission
- *Growth Within Bounds: Planning California Governance for the 21st Century*, September 2000, Commission on Local Governance for the 21st Century

February 23, 2016

Presiding Judge
Kern County Superior Court
1415 Truxtun Avenue, Second Floor
Bakersfield, CA 93301


We are pleased to respond to the Grand Jury's report regarding local Joint Powers Authorities and specifically Self Insured Schools of California (SISC) and Schools Legal Service (SLS). We were asked to respond directly to Recommendation #3. Our response to each recommendation is in *italics*.

Recommendations:

- R3: All public agencies should monitor the joint powers authorities in their jurisdiction including:
- a. JPAs should have up-to-date website with contact information, agendas, names for appointed board members and other pertinent information. *Websites are maintained for each of the JPAs administered by the Kern County of Superintendent of Schools and each website includes the information requested.*
 - b. Records should be easily accessed at a central location. *We agree and all public records are accessible at each JPA's main office.*
 - c. Review compliance with public agency requirements. *We agree and this is a standard practice of each JPA administered by KCSOS.*
 - d. Audits should be reviewed and presented to member boards in public meetings. *The SISC JPAs are organized as separate public agencies with audited financial statements presented to their boards in public meetings. Schools Legal Service is a contractual joint powers arrangement (not a separate public agency) administered by Kern County Superintendent of Schools. Its budget is part of the budget for KCSOS, which is audited and presented at a public meeting of the Kern County Board of Education. Regular budget reports are also provided to member representatives.*
 - e. Member agencies should review at agreed intervals and, if appropriate, change, renew or dissolve the agreement that established the authority. *Each JPA periodically reviews its JPA, with changes as needed to meet current business law and practices.*
 - f. At the time of the adoption of its annual budget, all public agencies should list relevant information, including purpose on its agenda. *We agree and each JPA does this as standard practice.*

Again, thank you for taking the time to understand the Joint Powers Agreements operated under the auspices of our office.

Sincerely,



Christine Lizardi Frazier
Kern County Superintendent of Schools

Cc: Foreman, Kern County Grand Jury



City of Maricopa, California

400 California Street
PO Box 550
Maricopa, California 93252
Office(661) 769-8279
Fax(661)769-8130

City Administrator
Eric G. Ziegler

March 25, 2016

Presiding Judge
Kern County Superior Court
1415 Truxtun Avenue, 2nd Floor
Bakersfield, CA 93301

Foreman
Kern County Grand Jury
1415 Truxtun Avenue
Suite 360
Bakersfield, CA 93301

Pursuant to Section 933.05 CPC, the City of Maricopa hereby submits the following response to the 2015 – 2016 Grand Jury Report dated January 21, 2016 entitled Hidden Governments – Joint Powers Authorities in California.

RECOMMENDATION:

RI. To improve transparency, accessibility, accountability and limitations, the County, through the Board of Supervisors, and each city council, should request local State representatives to promote reform to the "Joint Exercise of Powers Act" (Government Code §6500 et. seq). (Findings 1,2,3, and 4)

These requested reforms should include the following:

- A. Local LAFCos should be authorized to evaluate formation of proposed Joint Powers Authorities in a manner similar to the evaluation of proposed Special Districts.
- B. JPAs should be required to have an up-to-date website with contact information, agendas, location of public records, audits and other pertinent information.
- C. Joint Powers Authorities should have an office at a known location.
- D. Agendas, minutes and other records should be consolidated in one location that is readily accessible by the public.
- E. Member agencies and JPAs should post the names and contact information of appointed board members.

- F. There should be a penalty if required audits are not sent to member agencies for review.
- G. LAFCo should inform State record-keeping agencies and appropriate counties that a new JPA has been established.
- H. The Marks-Roos Act, and California Government Code §6587 should be reviewed to determine if the Act provides appropriate public benefit and oversight and if tighter restrictions should be placed on the issuing of bonds.
- I. If bonds are to be sold by a JPA, each member agency should be required to notify its constituents before considering approval of an authorizing ordinance or resolution.
- J. After such action is taken, there should be a mechanism for the public to petition the member agency to reconsider the issuance of bonds.

RESPONSE:

City believes that recommended legislation creates unnecessary interference by state in local decisions by local officials. Joint powers agencies are already subject to state open meeting laws; public records laws and other laws governing local government agencies. Thus, adoption of Grand Jury recommended legislation serves only to create another layer of "oversight" or supervision" by non-elected, non-local officials. There is no particular evidence that such oversight or supervision by the state has any beneficial purpose where it does exist and serves only to increase local government cost and bureaucratic employment.

Given the composition of LAFCO, there is little to suggest that LAFCO brings anything to the table other than the parochial political perspectives of its members, most of whom serve on the governing board of other agencies and act to advance those agency agendas, often at the expense of other agencies.

Given that the joint exercise of powers is fully authorized by California law, the city of Maricopa does not share the Grand Jury's concern or confusion over the formation and operation of joint powers agencies. Thus, from the city's perspective, this recommendation is a solution in search of a problem.

For these reasons and each of them, the City of Maricopa will not implement this recommendation.

RECOMMENDATION:

R2. Through review of relevant agreements and State Government Codes, the County and each incorporated city should identify all joint powers authorities to which each is a party.

RESPONSE:

City believes that each agency should be fully aware of the agreements to which it is a party and should monitor such agreements on an ongoing basis. For this reason, City concurs with and will implement this recommendation at its convenience.

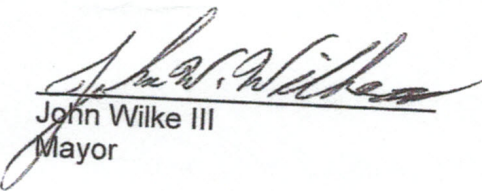
RECOMMENDATION:

R3. All public agencies should monitor the joint powers authorities in their jurisdiction including:

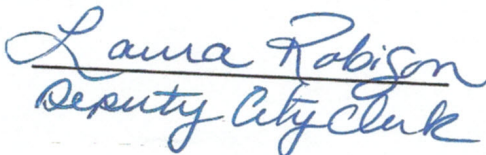
- A. JPAs should have up-to-date website with contact information, agendas, names for appointed board members and other pertinent information.
- B. Records should be easily accessed at a central location.
- C. Review compliance with public agency law requirements.
- D. Audits should be reviewed and presented to member boards in public meetings.
- E. Member agencies should review at agreed intervals and, if appropriate, change, renew or dissolve the agreement that established the authority.
- F. At the time of the adoption of its annual budget, all public agencies should list relevant information, including purpose on its agenda. (Findings 1,2 and 3)

RESPONSE:

City agrees in principle with recommendation. However, in a best case, City has but one vote on a JPA board; sometimes it has no vote. To the extent city has the ability to impact JPA policy, it will attempt to pursue the recommended actions through the governance structure of individual joint powers agencies.


John Wilke III
Mayor

ATTEST:


Laura Robison
Deputy City Clerk

MAR 9 2016

By 

4165 East Thousand Oaks Blvd. • Suite 350 • Westlake Village • California 91362 • Tel: 805-495-4770 • Fax: 805-495-2787

March 7, 2016

Kern County Grand Jury
1415 Truxtun Avenue, Suite 600
Bakersfield, CA 93301

Re: Response to Grand Jury Final Report entitled "Hidden Governments, Joint Powers Authorities in California"

As city attorney for the City of Ridgecrest ("City"), we provide the following correspondence in response to your Grand Jury Final Report entitled "Hidden Governments, Joint Powers Authorities in California." Your report identifies systemic problems with transparency in the administration of joint powers in California and suggests certain remedial measures.

The City is currently only a party to one joint powers authority ("JPA"): the insurance pooling agreement under California State Association of Counties. The City is not aware of any JPAs currently operating in its jurisdiction.

The City is currently contemplating the formation of a JPA to act as the agency to monitor groundwater use pursuant to the Groundwater Management Sustainability Act. This proposed JPA will be subject to the Brown Act, the Public Records Act and other statutes designed to promote public transparency. The City has instructed staff to ensure that this new JPA conforms to the recommendations contained in your report.

The City thanks you for your guidance regarding this matter. Our offices are available if you have any additional questions regarding this matter.

Very truly yours,

LEMIEUX & O'NEILL


W. Keith Lemieux

KL/mdd

cc: Dennis Speer, City Manager / City of Ridgecrest



336 Pacific Avenue • Shafter, California 93263

March 31, 2016

Weslie Brown, Fore Person
2015-2016 Kern County Grand Jury
1415 Truxtun Avenue, 2nd Floor
Bakersfield, CA 93301

Re: Final Report: Hidden Governments, Joint Powers Authorities in California

Dear Mr. Brown:

The City is in receipt of your letter dated January 21, 2016, wherein the Grand Jury transmitted its final report, Hidden Governments, Joint Powers Authorities in California. The City of Shafter has prepared the following is response to the Grand Jury's recommendations found in the report.

Recommendation 1: The Grand Jury recommended the Shafter City Council request local state representatives to promote to the Joint Exercise of Powers Act. The report outlined specific reforms identified as R1(A) through R1(J). City Staff will forward a copy of the Grand Jury final report to 14th Senate District Andy Vidak, 32nd Assembly District Rudy Salas, and the League of California Cities Legal Advocacy Program. City Staff will bring this matter to their attention for consideration of importance at a statewide level.

Recommendation 2: The Grand Jury recommended the City of Shafter conduct a thorough review of relevant agreements and State Government Code to identify all joint powers authorities for which the City of Shafter is a party. The City previously conducted a review and maintains a list of such agreements. The City regularly updates the list.

Recommendation 3: The Grand Jury recommended the City monitor the joint powers authorities under the City's jurisdiction. The Grand Jury outlined additional items with respect to monitoring in R3(A) through R3(F). The City of Shafter will conduct a review for compliance with the items identified in R3 (A) through R3 (F).

Recommendations 4 and 5: The Grand Jury made suggestions for consideration by the State Legislature and State agencies. The City of Shafter looks forward to collaborating with representatives of the State Legislature on these suggestions.

Please direct any questions you may have to me at (661) 746-5000.

Sincerely,

Scott Hurlbert
City Manager



March 15, 2016

Presiding Judge
Kern County Superior Court
1415 Truxtun Avenue, Suite 200
Bakersfield, CA 93301

Re: Grand Jury Report Dated January 21, 2016

Dear Presiding Judge:

Please consider this the City of Taft's response to the Grand Jury Final Report which accompanied your correspondence dated January 21, 2016. Thank you for giving the City of Taft an opportunity to respond to the report. As requested, the City is responding to Items R1, R2, and R3 of the report.

Regarding Item R1, the Grand Jury has asked the City to request that the State Legislature promote reform to the Joint Exercise of Powers Act. The Grand Jury's specific requests are outlined in items R1(A) through R1(J). The City sees the benefit of many of these Items. The City believes it can best achieve change by putting these requests before the California League of Cities for discussion on its agenda, thereby leveraging its influence with multiple municipalities. The City will attempt this at its next opportunity.

Regarding Item R2, the City is a party to a limited number of joint powers authorities. However, as recommended, the City will review all relevant agreements to confirm there are no additional subject authorities.

Regarding Item R3, the Grand Jury Final Report asks that the City monitor the joint powers authorities within its jurisdiction. Several points are outlined in R3(A) through R3(F). The City believes that it is presently complying with each of these points, but will conduct a review to identify any areas in which greater transparency can be achieved.

Thank you again for providing the Grand Jury's report to the City of Taft for review. The City of Taft appreciates the opportunity to comment on the report.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig Jones", is written over a horizontal line. Below the signature, the name "Craig Jones" and the title "City Manager" are printed.

Craig Jones
City Manager

cc: Weslie Brown, Foreperson, Kern County Grand Jury

ADMINISTRATION • FINANCE • PLANNING • PUBLIC WORKS
209 E. KERN STREET • TAFT, CA 93268
661 / 763-1222 • 661 / 765-2480 Fax
www.cityoftaft.org



4/8/2016

Presiding Judge
Kern County Superior Court
1415 Truxtun Avenue, Suite 200
Bakersfield, CA 93301

RE: Kern County Grand Jury Report entitled "**Hidden Governments - Joint Powers Authorities in California**"

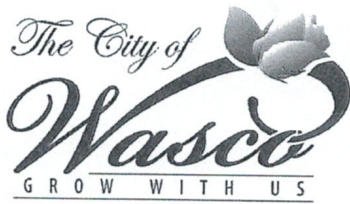
Dear Judge Humphrey,

The City is in receipt of a letter authored by Weslie Brown, Foreperson of the Kern County Grand Jury, dated January 21, 2016. Attached to the letter was the Grand Jury Final Report entitled "Hidden Governments - Joint Powers Authorities in California." The City of Wasco has prepared the following in response to the Grand Jury's recommendations found in the report.

Recommendation 1: The Grand Jury recommended the Wasco City Council request local state representatives to promote reform to the "Joint Exercise of Powers Act." The report outlined specific reforms identified as R1(A) through R1(J). City Staff will forward a copy of the Grand Jury final report to 14th Senate District Senator Andy Vidak, 32nd Assembly District Assemblymember Rudy Salas, and the League of California Cities Legal Advocacy Program. City staff will bring this matter to their attention for consideration of importance at a statewide level.

Recommendation 2: The Grand Jury recommended the City of Wasco conduct a thorough review of relevant agreements and State Government Codes, and identify all joint powers authorities for which the City of Wasco is a party. The City previously conducted a review and maintains a list of such agreements. The City regularly updates the list.

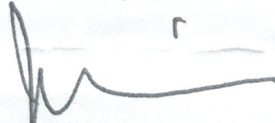
Recommendation 3: The Grand Jury recommended the City monitor the joint powers authorities in the City's jurisdiction. The Grand Jury outlined additional items with respect to monitoring in R3(A) through R3(F). The City of Wasco will conduct a review for compliance with the items identified in R3(A) through R3(F).



As directed, the City was not required to respond to Recommendation 4 or Recommendation 5.

Thank you for the opportunity to respond. Please direct any questions you may have to me at 661-758-7214.

Sincerely,



J. Paul Paris
City Manager

CC: Weslie Brown, Foreperson
Kern County Grand Jury
1415 Truxtun Avenue, Suite 600
Bakersfield, CA 93301

Kern County Board of Supervisors
Response to Grand Jury Final Report
Hidden Governments Joint Powers Authorities in California

Response to Recommendations:

R1: To improve transparency, accessibility, accountability and limitations, the County, through the Board of Supervisors, and each city council, should request local State representatives to promote reform to the "Joint Exercise of Powers Act".

These requested reforms should include the following:

- A. Local LAFCOs should be authorized to evaluate formation of proposed Joint Powers Authorities in a manner similar to the evaluation of proposed Special Districts.*
- B. JPAs should be required to have an up-to-date website with contact information, agendas, location of public records, audits and other pertinent information.*
- C. Joint powers authorities should have an office at a known location.*
- D. Agendas, minutes and other records should be consolidated in one location that is readily accessible by the public.*
- E. Member agencies and JPA should post the names and contact information of appointed board members.*
- F. There should be a penalty if required audits are not sent to member agencies for review.*
- G. LAFCo should inform State record-keeping agencies and appropriate counties that a new JPA has been established.*
- H. The Marks-Roos Act, and California Government Code §6587 should be reviewed to determine if the Act provides appropriate public benefit and oversight and if tighter restrictions should be placed on the issuing of bonds.*
- I. If bonds are to be sold by a JPA, each member agency should be required to notify its constituents before considering approval of an authorizing ordinance or resolution.*
- J. After such action is taken, there should be a mechanism for the public to petition the member agency to reconsider the issuance of bonds.*

Some cities support the recommendation and will forward to state legislators, while others may oppose it and will elect not to implement the recommendation. The recommendation would impose substantial added costs upon local governments to maintain separate offices, staff, and internet websites for JPAs. The recommendation would also introduce new restrictions on the issuance of bonds that may or may not be appropriate to impose on JPAs.

At this time, the Board of Supervisors will not support or oppose the recommendation. If the need arises for further consideration of this recommendation, the Board will reevaluate this recommendation.

R2: Through review of relevant agreements and State Government Codes, the County and each incorporated city should identify all joint powers authorities to which each is a party.

We concur with the Grand Jury's recommendation. As the official repository of County records of the Board of Supervisors, the Clerk of the Board maintains records of all JPA agreements considered and approved by the Board, and is responsible to produce those documents upon request. The Clerk maintains a list of these documents on file and updates the list whenever a request for such records is received.

R3: *All public agencies should monitor the joint powers authorities in their jurisdiction including:*

- A. JPAs should have up-to-date website with contact information, agendas, names for appointed board members and other pertinent information.*
- B. Records should be easily accessed at a central location.*
- C. Review compliance with public agency law requirements.*
- D. Audits should be reviewed and presented to member boards in public meetings.*
- E. Members agencies should review at agreed intervals and, if appropriate, change, renew or dissolve the agreement that established the authority.*
- F. At the time of the adoption of its annual budget, all public agencies should list relevant information, including purpose on its agenda.*

The County of Kern is currently fulfilling our requirements. We concur that additional monitoring is desirable, but are also cognizant of the County's ability to enforce and the financial constraints. The Grand Jury's Final Report will be forwarded to each JPA to identify additional enhancements.

Incorporated 1965

City of California City

City Hall



PHONE (760) 373-8661

21000 HACIENDA BLVD. - CALIFORNIA CITY, CALIFORNIA 93505

April 8th, 2016

Honorable Judge Humphrey
Kern County Superior Court
1415 Truxton Avenue, 2nd Floor
Bakersfield, CA 93301

Dear Presiding Judge Humphrey,

The Kern County Grand Jury has released their report on Hidden Governments, Joint Powers Authorities in California, January 21st, 2016. They have made five recommendations of which three the City of California City has the direct ability to take action on with each of those being addressed as follows:

R1. To improve transparency, accessibility, accountability and limitations, the County, through the Board of Supervisors, and each city council, should request local State representatives to promote reform to the "Joint Exercise of Powers Act".

The City of California City recognizes the importance of the recommendation and has reached out through our local State representatives to provide them copies of the Grand Jury report for their review and action. We have also taken the initiative to brief the Desert Mountain Division of the League of Cities at their February 19th meeting of the issues brought up by the Kern County Grand Jury so they too may highlight the requests for action through the League of California Cities. The discussion at the meeting attracted the attention of Assemblyman Jay Obernolte, Assembly District 13, who requested a copy of the report be provided to his chief of staff.

R2. Through review of relevant agreements and State Government Codes, the County and each incorporated city should identify all joint powers authorities to which each is a party.

The City of California City has limited the JPAs that it actually take part in. The city is an active member in the Public Agency Risk Sharing Authority of California which was formed in 1986 as CMIA to provide liability coverage in response to the insurance crisis that eliminated commercial

coverage for cities. PARSAC is a statewide, risk sharing Joint Powers Authority (JPA) that provides comprehensive coverage to cities, towns and non-municipal public agencies through the state of California. We provided a copy of the Grand Jury's report for their General Manager and Executive Board of Directors to review. They provided the comment below on their work as a JPA for consideration as well as their expressed willingness to be transparent in all their actions.

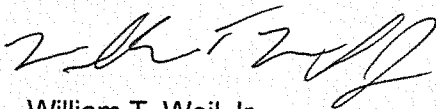
PARSAC is a risk sharing joint powers authority organized under government code sections 6500 and 990 and functioning as a local public agency for thirty years. We have served our constituency proudly and conservatively for that period of time. As a JPA we are the fiduciary of taxpayer funds and take that responsibility seriously. We are audited annually by an independent CPA. That annual audit is posted on the web, mailed to members and reported as required to the State Controller. Any changes to the Joint Powers Agreement are filed with the Secretary of State and the Sacramento Auditor/Controller. Additionally we file an "Annual Report of Financial Transactions" and a "Government Compensation Report" with the State Controller and report payroll and benefits annually, as well as posting that information for transparency on our website. Our roster of Board of Director Members and Conflict of Interest Code is sent to the Secretary of State annually. The FPPC Form 700 is collected annually for all serving members and staff as well as assuming and leaving office statements. Claims information is on file with the State Department of Industrial Relations, and annual fees paid.

All Meetings are in public, in accordance with the Brown Act, minutes are recorded, the agenda packet published and all are on the web. PARSAC has no debt, no bonds or other financing. Our website is up to date, all records of JPA business are available at our published address, claims records are at the vendor site (those are not public records). Please share our information with others. We are certain there are many more organizations like ours that perform a vital intergovernmental role, successfully, legally and ethically.

R3. All public agencies should monitor the joint powers authorities in their jurisdiction. The Grand Jury outlined additional items with respect to monitoring in R3 (A) through R3 (F) in which the City of California City will review for compliance.

Please contact me at 760-373-7170 if you require any additional information.

Sincerely,



William T. Weil Jr
City Manager

CC: Weslie Brown, Foreperson
Kern County Grand Jury
1415 Truxton Avenue, Suite 600
Bakersfield, CA 93301

KERN COUNTY GROUNDWATER

Cooperation or Conflict?

EXECUTIVE SUMMARY:

Water can be thought of as a “common good”, defined as something that can be beneficial for all or most members of a given community. This is a time of drought; water resources, both surface and underground, are being consumed beyond their long-term capacity. Local groundwater basins are critically overdrafted.

Optimism seems to abound among state regulators that interested parties will readily agree to a plan that can then be implemented to curb overuse. As stated in the 2015 Sustainable Groundwater Management Act (SGMA), “*Sustainable Groundwater management in California depends upon creating more opportunities for robust conjunctive management of surface water and groundwater resources.*” Echoing this, in draft regulations the California Department of Water Resources (DWR) states, “*This landmark law empowers local agencies to implement groundwater sustainability plans tailored to the needs of their communities.*”

The County has taken the lead to form a Groundwater Sustainability Agency (GSA) for both the Tulare Lake Groundwater Basin and the Indian Wells Valley Groundwater Basin. Information and documentation are being assembled; discussions are ongoing. It is early in the process and many complexities lie ahead. Though each groundwater basin must reach sustainability 20 years after plan approval in 2020, the hard work leading to consensus is happening now and in the near future.

The 2015-2016 Kern County Grand Jury (Grand Jury) recommends that the County and each GSA reach out to all potentially interested parties to ensure participation and easy access to information on groundwater sustainability through websites and offices at known locations.

PROCESS:

The purpose of this inquiry was to understand the mandates of the Sustainable Groundwater Management Act and the local processes that have been initiated. The Grand Jury researched legislation and regulations, interviewed water district members, County and Bakersfield Water Department staff, attended a Groundwater Authority meeting and reviewed on line information concerning droughts and related subjects. A particular focus was the agreements and amendments for the two proposed groundwater authorities.

In February 2016 the Grand Jury issued a report entitled *HIDDEN GOVERNMENTS – Joint Powers Authorities in California*. That report noted that such authorities have benefits but can also pose risks that are hidden from public view. The report recommended that authorities be transparent, accessible, accountable and limited.

The Grand Jury applied the findings of that report to the agreements and processes that are underway to arrive at recommendations. In addition, this report contains background information for third parties who want to be involved in these issues.

BACKGROUND:

Drought in California

In January 2016, the California Department of Water Resources and the U.S. Bureau of Reclamation finalized a report entitled, “*Central Valley Project and State Water Project 2016 Drought Contingency Plan For Water Project Operations February - November 2016.*” The report gives a perspective on drought in California:

California has just ended its fourth consecutive year of below-average rainfall and snowpack, and Water Year 2015 was the eighth of nine years with below-average runoff. This extended drought has produced chronic and significant shortages to municipal and industrial, environmental, agricultural, and wildlife refuge water supplies and led to historically low groundwater levels. This recent dry hydrology has set many new statewide records, including the driest four-year period of statewide precipitation (2012-2015)...The cumulative effect of these sustained dry conditions is demonstrated in reduced natural runoff for streamflow, limited surface water storage in reservoirs, increased groundwater pumping, and significant effects to fish and wildlife populations (both listed and non-listed species, including salmon, smelt, and waterfowl).

The effects of the drought are evident in Kern County.

State Groundwater Regulations

In September 2014, the Governor signed bills that establish the framework for groundwater regulation in California for the first time in the State’s history. These bills form SGMA, the “Sustainable Groundwater Management Act”. The legislation provides a comprehensive groundwater sustainability management program in California.

SGMA directed the State Department of Water Resources to develop regulations to guide implementation. The draft DWR regulations state:

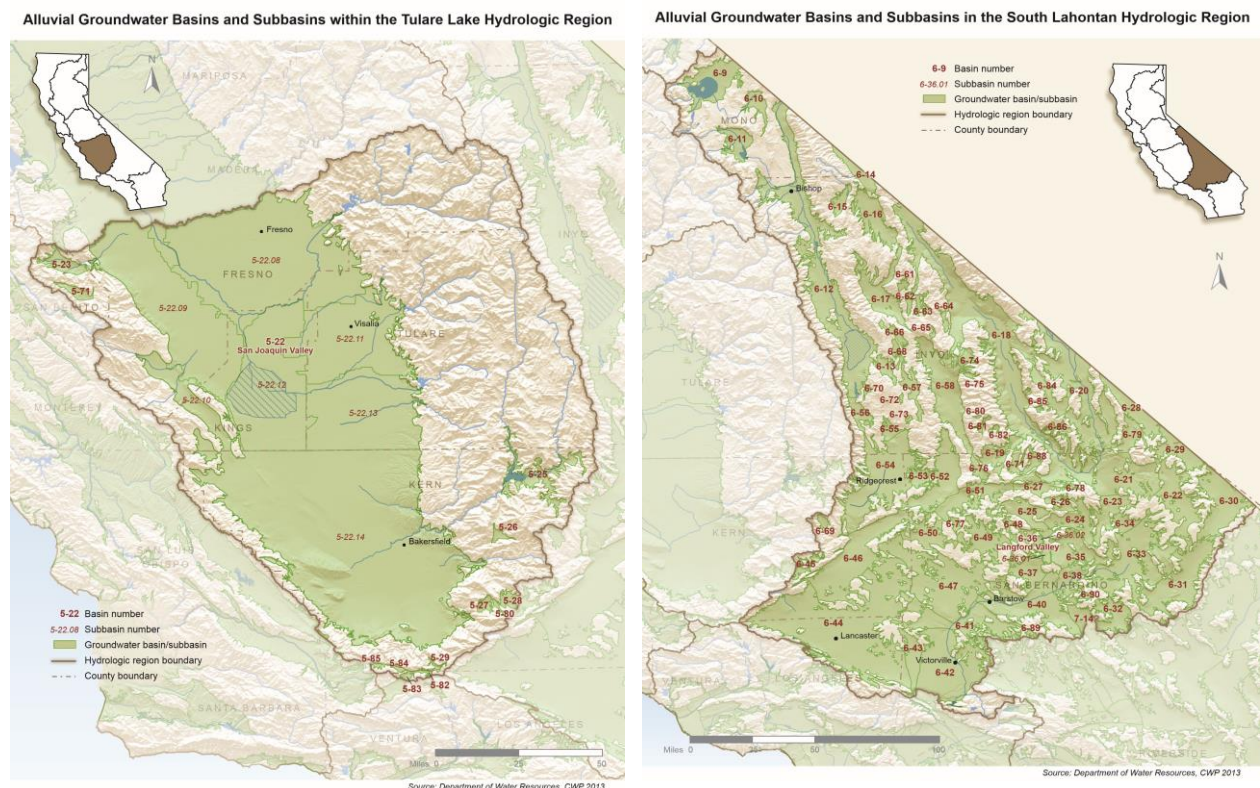
On January 1, 2015, California began implementing the Sustainable Groundwater Management Act (SGMA). This landmark law empowers local agencies to implement groundwater sustainability plans tailored to the needs of their communities. California depends on groundwater for a major portion of its annual water supply, particularly during times of drought. Current drought conditions illustrate the need for reliable and resilient water supplies. The long-term planning required by SGMA will ensure that groundwater is a buffer against drought and climate change and contributes to reliable water supplies regardless of weather patterns in the State.

It is not that simple. There are portions of two basins in Kern County, the Tulare Lake Groundwater Basin and the Indian Wells Valley Groundwater Basin. For each of these basins:

- DWR classified these basins as “critically overdrafted”
- Cities, water districts, mutual water companies, commercial enterprises and individuals that pump water want to protect their access to water
- The underlying geology of each basin is complex and open to interpretation
- A possibly complicated agreement and a coordination agreement must be approved
- By January 1, 2020 each basin must have adopted a Groundwater Sustainability Plan (GSP)
- Large parts of each basin may not be included in any GSP so the County itself will have responsibilities that it may not be eager to assume
- The State could intervene and impose a plan if local processes collapse
- Limits on water availability could lead to lower property values

See the Appendix for sections from SGMA that are of interest in this report.

Groundwater Basin Maps



The map on the left shows the Tulare Lake Groundwater Basin. The Basin includes a portion of Kern County as well as other counties to the north that are not participating in the Kern Groundwater Authority.

The map on the right shows the Indian Wells Valley Groundwater Basin that includes portions of Kern, Inyo and San Bernardino Counties. All three counties are participating in the Indian Wells Valley Groundwater Authority.

Local Roles

Under SGMA, local agencies having water supply, water management, or land use responsibilities within a groundwater basin have a role in the GSP process. For some agencies, that role is recommended but not required. A water district, for example, can decide not to participate in the planning process, but eventually would be subject to a plan or regulations. The Appendix has lists of participants.

An agency with authority over land use, namely the County, has responsibilities regarding coordination of the local processes. A city can form a Groundwater Sustainability Agency (GSA) or participate in a larger GSA. The County may have to adopt regulations to cover those portions of each groundwater basin that are not included in the boundary of an adopted GSP.

Draft DWR regulations state, *“The groundwater sustainability agency shall consider the interests of all beneficial uses and users of groundwater, as well as those responsible for implementing groundwater sustainability plans.”* In addition to entities that have groundwater rights, the interests of all water users need to be taken into account. These users therefore have a right to participate in the planning process.

Milestones

By January 1, 2020, each basin must have one or more adopted Groundwater Sustainability Plans. Subsequently, the DWR would review and approve the Plan. Twenty years after Plan approval, or about 2040, the groundwater basin must reach sustainability.

The County took the lead in organizing meetings with interested agencies. For the Tulare Lake Groundwater Sub-Basin in Kern County, meetings have been underway since 2014. The Indian Wells Valley process began in late 2015. Given the tasks ahead and the importance of water for purveyors and users alike, there may be conflicts that will not be easy to resolve.

Although not specified by SGMA, if the County adopts regulations for areas not governed by a city or otherwise part of a GSA, those regulations would probably need to be in place by the time a GSP is adopted.

Groundwater Sustainability Authority - Options

One or more GSAs must include the entire geography of each groundwater basin in the County. If there is more than one GSA in a basin, there must be a coordination agreement among all GSAs. This would need to include the County since there are land areas not covered by any other local entity.

A GSA can take several forms. For example:

- A body similar to a planning commission could be appointed to consider important items and make a recommendation to the Board of Supervisors that would be the decision maker
- The GSA(s) in the basin would be governed by a separate joint powers authority (JPA). The JPA could have a number of directors elected or appointed by the various entities. Since some actions would affect local districts significantly, it would be possible to require more than simple majority to make decisions
- There could be multiple GSAs with a coordination agreement to govern concerns between and among GSAs; arbitration could be used to settle issues
- The County could decide to assume all authority if no other agency stepped forward, but the County could not impose itself in an area where a GSA-eligible agency has jurisdiction and wishes to function as a GSA
- If the process collapses entirely, the State might be forced to take control

Existing Agreements

Kern Groundwater Authority

An initial agreement for Tulare Lake Groundwater Basin was approved by the Board of Supervisors on April 8, 2014. It was amended and restated on April 5, 2016. Through that agreement, the Kern Groundwater Authority was created. Members include many water districts and agencies, the City of Shafter and the County.

Among the provisions of the agreement are the following:

- ...the Kern Groundwater Authority (the “Authority”) was created to carry out the purposes of Part 2.75 of Division 6 (commencing at Section 10750 of the California Water Code) and develop, adopt and implement a groundwater management plan that would be available to those lands within the boundaries of the Authority’s members and within the Tulare Lake Groundwater Basin
- The intent of the Members under this Agreement is to provide each Member with the sole right and responsibility to implement SGMA within its respective boundaries and/or Management Areas, as defined herein, in a manner determined by the Member, whether through the Authority or as a GSA....The Members expressly intend that the Authority will not have the authority to limit or interfere with the respective Members’ surface water supplies, groundwater supplies, facilities, operations, water management, and Water Supply Matters, as defined herein. Nothing in this Agreement is intended to modify or limit Members’ police powers
- Meetings of the Board of Directors and any Committee (to the extent applicable) shall be conducted in accordance with the Ralph M. Brown Act, California Government Code Sections 54950, et.seq.

Meetings of the Authority have been underway for many months. Using contributions from participating agencies, the Authority hired a consultant. The consultant has provided information on subjects, including SGMA and DWR requirements, timelines, surface and groundwater supplies, water storage and coordination among agencies. Access to this information is available through their website. On April 26, 2016 the Authority held a public meeting to inform the public of the process and challenges.

Indian Wells Valley Groundwater Authority

In 2015, representatives of local agencies in the Indian Wells Valley met to discuss the type of legal structures that could be employed. These discussions are ongoing. On January 26, 2016, the County Board of Supervisors approved a resolution with an attached draft agreement. The resolution supported the formation of a Groundwater Sustainability Agency structure to carry out the directives of SGMA.

Among the provisions of the draft agreement dated March 15, 2016, are the following:

- The purpose of this Agreement, and the creation of the Authority, is to provide for the joint exercise of powers common to the General Members for the purpose of cooperatively carrying out the requirements of SGMA, including serving as the GSA for the Basin and developing, adopting and implementing a GSP which achieves groundwater sustainability
- All meetings of the Board of Directors, including special meetings and committee meetings, shall be noticed, held, and conducted in accordance with the provisions of the Ralph M. Brown Act (Government Code sections 54950, et. seq.)
- Principal Office. At the initial meeting of Board, the Board shall establish, by a simple majority vote, a principal office for the Authority which shall be located at a place overlying the Basin. The Board may change the principal office from time to time as the Board sees fit so long as that principal office remains at a location overlying the Basin
- Dissolution. The Authority may be dissolved at any time upon the unanimous vote of the Board and approval of the General Members' governing boards. However, the Authority shall not be dissolved until all debts and liabilities of the Authority have been eliminated. Upon Dissolution of the Authority, each General Member shall receive its proportionate share of any remaining assets after all Authority liabilities and obligations have been paid in full

FINDINGS:

In February, 2016 the Grand Jury issued a report entitled *HIDDEN GOVERNMENTS – Joint Powers Authorities in California*. The Grand Jury applied the findings of that report to the agreements cited above and made findings and recommendations to improve access and participation by interested parties. There are some differences between the agreements that are reflected in the following:

- F1. The Kern Groundwater Authority agreement does not specify that the authority have a local office. The Kern Groundwater Authority has a website (www.kerngwa.com), but neither agreement specifies that the authority have a website through which board member contact information, agendas, financial records and other records must be available.
- F2. The agreements do not require board members and management staff to complete and file Fair Political Practices Commission California Form 700, "Statement of Economic Interests" (Form 700)
- F3. The agreements do not require audits that are sent to member agencies and the County for review.
- F4. Each authority is established under California Code §6500 and therefore the agency could issue bonds under Marks-Roos Local Bond Pooling Act (Marks-Roos). Such bonds could be utilized to carry out projects that benefit a private entity without sufficient public consideration. The agreements do not exclude issuing bonds and would probably be permissible.
- F5. The Kern Groundwater Authority agreement does not specify periodic agreement review and how the authority might be dissolved if it serves no further purposes.
- F6. A number of agencies have been involved in the SGMA process. The Kern Groundwater Authority held one public meeting. However, many agencies, individuals and areas with small farms or small housing developments that depend on pumped water have not been advised of the process.

RECOMMENDATIONS:

The Grand Jury recommends the County and each GSA follow the recommendations noted below and as soon as possible amend the formation agreement to incorporate language as noted.

- R1. The GSA should have an up-to-date website with contact information, agendas, and other pertinent information. Names and contact information for all board members should be easily found on the GSA website. (Finding F1)
- R2. The GSA should have an office at a known location which is easily accessible to the public and at which board member contact information, agendas, minutes, financial records and other records would be available for review and copying. This may be as simple as having a file cabinet for records located at a specified board member's office, but eventually there could be a separate office with staff. (Finding F1)
- R3. GSA Board members and management staff, if any, should be required to complete and file Form 700 and these forms should be available for review at the GSA office. (Finding F2)

- R4. GSA audits should be sent to member agencies and the County. County Auditor-Controller staff should review audits for compliance and report their findings to the GSA. (Finding F3)
- R5. Authority to issue bonds under Marks-Roos and Government Code §6587 should only be granted through a later amendment to the agreement. (Finding F4)
- R6. The agreement should have a mechanism for modifying its terms. (Finding F5)
- R7. The agreement should specify that if the GSA serves no further purpose it should be dissolved in a timely manner. (Finding F5)
- R8. The County and GSA should hold additional public meetings and other events to make sure that all interested parties and stakeholders are informed of the importance of the GSA process. All media should be used to notify the public of upcoming events. (Finding F6)

NOTES:

The County of Kern, the Kern Groundwater Authority, and the Indian Wells Valley Groundwater Authority should post a copy of this report where it will be available for public review.

Persons wishing to receive an email notification of newly released reports may sign up at www.co.kern.ca.us/grandjury.

Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: www.co.kern.ca.us/grandjury.

RESPONSE REQUIRED WITHIN 90 DAYS

**PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301**

**CC: RICHARD FRANK, FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301**

APPENDIX:

SGMA - The “Sustainable Groundwater Management Act”, formed by Senate Bill 1168, Assembly Bill 1739, and Senate Bill 1319 (which amended AB 1739) of the 2013-2014 legislative session, defines a number of terms, including the following:

- **Local agency** - a local public agency that has water supply, water management, or land use responsibilities within a groundwater basin.
- **Sustainability goal** - The existence and implementation of one or more groundwater sustainability plans that achieve sustainable groundwater management by identifying and causing the implementation of measures targeted to ensure that the applicable basin is operated within its sustainable yield.
- **Undesirable result** - One or more of the following effects caused by groundwater conditions occurring throughout the basin:
 - Chronic lowering of groundwater levels indicating a significant and unreasonable depletion of supply if continued over the planning and implementation horizon. Overdraft during a period of drought is not sufficient to establish a chronic lowering of groundwater levels if extractions and recharge are managed as necessary to ensure that reductions in groundwater levels or storage during a period of drought are offset by increases in groundwater levels or storage during other periods.
 - Significant and unreasonable reduction of groundwater storage.
 - Significant and unreasonable seawater intrusion.
 - Significant and unreasonable degraded water quality, including the migration of contaminant plumes that impair water supplies.
 - Significant and unreasonable land subsidence that substantially interferes with surface land uses.
 - Depletions of interconnected surface water that have significant and unreasonable adverse impacts on beneficial uses of the surface water.
- **Condition of long-term overdraft** - The condition of a groundwater basin where the average annual amount of water extracted for a long-term period, generally 10 years or more, exceeds the long-term average annual supply of water to the basin, plus any temporary surplus. Overdraft during a period of drought is not sufficient to establish a condition of long-term overdraft if extractions and recharge are managed as necessary to ensure that reductions in groundwater levels or storage during a period of drought are offset by increases in groundwater levels or storage during
- **Coordination agreement** - A legal agreement adopted between two or more groundwater sustainability agencies that provides the basis for coordinating multiple agencies or groundwater sustainability plans within a basin pursuant to this part.

- **Groundwater sustainability agency** - One or more local agencies that implement the provisions of this part. For purposes of imposing fees pursuant to Chapter 8 (commencing with Section 10730) or taking action to enforce a groundwater sustainability plan, "groundwater sustainability agency" also means each local agency comprising the groundwater sustainability agency if the plan authorizes separate agency action.

The Kern Groundwater Authority is comprised of the following members:

Arvin-Edison Water Storage District
 Cawelo Water District
 City of Shafter
 Kern County Water Agency Improvement District 4
 Kern County Water Agency
 County of Kern
 Kern Delta Water District
 Kern-Tulare Water District
 Kern Water Bank Authority
 North Kern Water Storage District
 Olcese Water District
 Rosedale-Rio Bravo Water Storage District
 Semitropic Water Storage District
 Shafter-Wasco Irrigation District
 Southern San Joaquin Municipal Utility District
 Tejon-Castaic Water District
 West Kern Water District
 Westside District Water Authority
 Wheeler Ridge-Maricopa Water Storage District

The following is a list of agencies that are eligible to join the GSA in the Indian Wells Valley. This list does not include entities such as mutual water companies or water companies regulated by the California Public Utilities Commission that may join the GSA if board members consent.

City of Ridgecrest
 Indian Wells Valley Water District
 Inyo-Kern Community Services District
 County of Kern
 County of Inyo
 County of San Bernardino
 United States Navy (stated intent to be non-voting member)
 Bureau of Land Management (stated intent to be non-voting member)
 Native American Tribes (have not indicated intent to participate)

Kern County Board of Supervisors
Response to Grand Jury Final Report
Kern County Groundwater

Response to Findings:

The Grand Jury's findings are substantially correct. Kern County is in different stages of the Sustainable Groundwater Management Act (SGMA) legislation implementation. The County has joined the Kern Groundwater Authority (KGA) but the KGA has not filed to be a Groundwater Sustainability Agency (GSA) yet. That is expected to happen in the coming months. The County has also entered into a Joint Powers Authority Agreement (JPA) with other agencies in the Indian Wells Valley Groundwater Basin. That JPA is called the Indian Wells Valley Groundwater Authority (IWVGA). Members include Kern County, Inyo County, San Bernardino County, City of Ridgecrest and Indian Wells Valley Water District. The United States Navy and the Bureau of Land Management are also non-voting members of the IWVGA. The JPA has yet to hold its first meeting. The IWVGA has not yet filed to be a GSA.

Response to Recommendations:

R1: The Groundwater Sustainability Agency (GSA) should have an up-to-date website with contact information, agendas, and other pertinent information. Names and contact information for all board members should be easily found on the GSA website.

We concur with the Grand Jury's recommendation to have a website with contacts, agendas, and pertinent information. Although no GSA has been formed with Kern County as a member, we anticipate that the IWVGA will have a website once its board meets and provides direction. Kern County provides a webpage that includes the pertinent information from the Indian Wells Valley Groundwater Basin that was requested by the Grand Jury. Also, the KGA, which the County is a member, maintains a website with the information mentioned.

R2: The GSA should have an office at a known location which is easily accessible to the public and at which board member's contact information, agendas, minutes, financial records and other records would be available for review and copying. This may be as simple as having a file cabinet for records located at a specified board member's office, but eventually there could be a separate office with staff.

We concur with the Grand Jury's recommendation to have public records easily accessible. At this time, no GSA has been formed with Kern County as a member; however, we anticipate the services will be available through IWVGA and KGA.

R3: GSA Board members and management staff, if any, should be required to complete and file Form 700 and these forms should be available for review at the GSA office.

We concur with the Grand Jury's recommendation to have GSA board members file Form 700 and be available for public review. That will be one of the actions of the IWVGA when it meets.

R4: GSA audits should be sent to member agencies and the County. County Auditor-Controller staff should review audits for compliance and report their findings to the GSA.

For any GSA of which Kern County is a member, the GSA will comply with state law for public agencies with regard to financial or other compliance audits.

R5: Authority to issue bonds under Marks-Roos and Government Code §6587 should only be granted through a later amendment to the agreement.

We concur with the Grand Jury's recommendation regarding bond issuance. If there is a need to issue bonds, then an amendment to the GSA enabling agreement would likely be necessary.

R6: The agreement should have a mechanism for modifying its terms.

We concur with the Grand Jury's recommendation to allow enabling agreements and terms to be modified as needed. The IWVGA JPA agreement allows for it to be modified by the board. The KGA agreement included language stating that it may be modified from time to time.

R7: The agreement should specify that if the GSA serves no further purpose it should be dissolved in a timely manner.

We concur with the Grand Jury's recommendation to dissolve a GSA once its work is completed. SGMA calls for a twenty year sustainability plan and there must be a GSA in place during that period for groundwater basins.

R8: The County and GSA should hold additional public meetings and other events to make sure that all interested parties and stakeholders are informed of the importance of the GSA process. All media should be used to notify the public of upcoming events.

We concur with the Grand Jury's recommendation to conduct public and other outreach meetings. In fact, both the KGA and the IWVGA have sponsored numerous public meetings with notice and promoted by local media. Kern County supports public outreach and efforts of Stakeholders from many interest groups that have been involved and contributed to discussions about GSA formation.