



"Citrus Capital of the World"

City of Santa Paula

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September 7, 2011

The Honorable Vincent O'Neill, Jr.
Presiding Judge of the Superior Court
County of Ventura
800 S. Victoria Avenue
Ventura, CA 93009

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VENTURA COUNTY
GRAND JURY

Dear Honorable Judge O'Niell:

The City received a copy of the June 17, 2011 Grand Jury Report regarding the Santa Paula City Council (the "Report"). The Report requests that the City respond to Findings FI-03 through FI-5; FI-07; and FI-08. In addition, it asks that the City respond to Recommendations R-01 through R-04. This letter responds to the Report in accordance with Penal Code 933(c)(d).

- FI-03: It is the City's understanding that representatives of the Grand Jury undertook extensive review of public records pertaining to proposals for the Water Recycling Facility ("WRF").¹ There are various means by which the full cost of the WRF may be evaluated. The Report did not explain the methodology used to conclude that the City Council accepted a proposal that was more than a competing proposal. Consequently, the City cannot adequately respond to this finding. The City Council's decision to award the design build operate and finance ("DBOF") contract to Santa Paula Water, LLC was made for the reasons stated in the public record including, without limitation, the City Council meeting minutes and video. While staff recommendations are important components of local government, and should be carefully considered, members of the City Council are the elected representatives of the City's residents. Consequently, the City Council may make decisions that are contrary to staff's recommendations.
- FI-04: As in FI-03, the City Council's decision-making process for selecting Santa Paula Water, LLC as the successful DBOF vendor is a matter of public record. There is no legal requirement, in this instance, that the City Council provide a comprehensive explanation regarding why it selected Santa Paula Water, LLC. A review of the record, however, shows that several Councilmembers cited a number of reasons for selecting this vendor.
- FI-05: It is unclear what the Report means in stating that "[t]he Council *compelled* itself to make the WWTP contract [*sic*] award decision on the deadline date set by the regulatory agency." The Stipulated Consent Judgment and Final Order entered by the Ventura County Superior Court on September 24, 2007 (the "Consent Decree")² required the City to complete design of the WRF not later than April 15, 2008.³ More accurately stated, therefore, the City was compelled by the Consent Decree to award a contract. This was not a self-imposed deadline.

¹ The City believes that the included list of "writings" – as defined by the California Public Records Act – was reviewed by the Grand Jury in preparing the Report.

² *People ex rel. California Regional Water Quality Control Board, Los Angeles Region v. City of Santa Paula* (VCSC Case No. 56-2007-00304441-CU-MC-VTA).

³ Consent Decree, Article V(B), p.13.

- FI-07: The Report does not cite a legal requirement that Councilmembers receiving campaign contributions must disclose that fact under these circumstances. Moreover, the City is not aware of such a requirement.
- FI-08: It appears that the Report misunderstands the requirements regarding trips related to City business. In reviewing FA-23 to FA-24, it appears that the Report identified trips taken by Councilmembers to Washington, D.C. Regulations of the Fair Political Practices Commission ("FPPC")⁴ outline when "[a] payment made for travel, including actual transportation and related lodging and subsistence" is not considered a prohibited gift. Among other things, the FPPC regulations provide that the travel (and related costs) must be "reasonably related to a legislative or governmental purpose..." These are not "City requirements"; they are FPPC requirements. To ensure that Councilmembers comply with the FPPC regulations, the City Council previously took action to approve travel.⁵
- R-01: Staff will prepare a draft policy for City Council consideration which would, under similar circumstances, ensure that specific reasons will be given and become part of the record when the City Council chooses not to accept the recommendation of Staff.
- R-02: See response to R-01.
- R-03: Under California law, the City Council must adopt a conflict of interest code every two years. Moreover, the City Council is informed and understands when, under California law, individual Councilmembers are required to disclose potential conflicts of interest. No further action is required.
- R-04: As noted above, the FPPC regulations determine when travel and travel-related expenses are not prohibited gifts under California law. The City Council previously took action to ensure compliance with those regulations. Staff will again advise the City Council that such action is desirable in all instances.

Thank you for the opportunity to respond to the Report. Please contact Mayor Fred Robinson or City Manager Jaime Fontes if you have any further questions.

Sincerely,



Fred Robinson, Mayor

cc: Santa Paula City Council
Foreman, Ventura County Grand Jury

⁴ 2 California Code of Regulations § 18950.1.

⁵ See e.g., Staff Report dated September 14, 2009 for Agenda Item No. 10E on the September 21, 2009 City Council meeting.