



City of Desert Hot Springs

September 25, 2006

Ms. Evelyn L. MacConnell, Foreperson
Riverside County Grand Jury
P.O. Box 829
Riverside, California 92502

RE: GRAND JURY REPORT DATED JUNE 26, 2006 - CITY OF DESERT HOT SPRINGS
COMPLAINT NO. 05-06-007

Ms. MacConnell:

The purpose of this correspondence is to respond to the 2005-2006 Grand Jury Report, copy attached, provided to the City of Desert Hot Springs in June 2006. On behalf of the City Council, I would like to respond to the five (5) recommendations in the report, as required by Penal Code Section 933 et seq. However, in doing so, let me take this opportunity to provide general background information on the organization and its management during the past several months, information which I believe will place the subsequent responses to recommendations in perspective – factually.

I began my tenure here as City Manager on May 1, 2006. Between August 2005 to May 2006, the City experienced numerous management and administrative changes, including but not limited to a City Council election, interim City Manager, interim City Attorney, and organization realignment. Although not a justification for administrative oversights, it is, at least, an explanation.

When recruiting for its permanent City Manager, the City Council was committed to selecting an individual "of the profession". Given the complexity and uniqueness of local government in California, the City Council acknowledged the imperative that the permanent City Manager must possess not only general management experience in municipalities, but also detailed, technical knowledge of local government operations in all departments. I believe that my education, experience and training in public administration these past 25 years, in several California cities, meets this requirement, and thereby ensures that the City is managed in a fiscally sound and technically accurate manner. In addition, during my brief tenure, I have reorganized City staff, and have assembled and reassigned duties among executive staff in order to ensure that each department is managed by an individual with the necessary technical qualifications for that department. Although much work remains in this area, the City of Desert Hot Springs organization is certainly not the organization of past years.

That having been said, I would like to address each of the recommendations within the Grand Jury Report, and indicate the actions taken to date which, I believe, fulfill the spirit of this report.

Specifically,

1. **Ethics** - At this writing, EACH of the present City Council members have completed the ethics training as required by recent State legislation (AB 1234). Documentation of such is maintained within the City's Human Resources Department files and, a set is also retained by the City Clerk, as well. Further, an aggressive policy of securing Form 700 compliance from each and every Board, Commission and Committee - including community task forces - has been implemented, in addition to these forms required of City Council, City Manager and key administrative staff. Training schedules for all city employees - more than that which is required by law - have also been scheduled for October 2006. This training will be conducted by the City's new City Attorney, who will begin October 1, 2006. Although still in contract negotiation at this writing, the proposed firm is a full-service, City Attorney with extensive experience in elections law, conflict of interest issues, and ethics training. As an aside, training is also scheduled for all city employees in cultural diversity, sexual harassment and conflicts of interest to ensure a thorough understanding of the basic principles of public service, the values and standards expected thereof.
2. **Development Processing Accounting** - This recommendation is quite interesting, in that the vast majority of cities statewide do not segregate their planning and building fees from their General Fund, as recommended. Here, in Desert Hot Springs, they do. These fees are, by definition, cost recovery fees and required to offset the costs of providing the various development related services. When Proposition 4 passed in the late 1970's, such fees were limited in rates to those costs directly attributable to providing the service and a justifiable administrative factor. Unlike most cities, Desert Hot Springs has defined a Community Development Fund which accounts separately for all revenues collected for development processing and the expenditures of those programs/departments that provide that service i.e. planning, engineering, building plan check, building permit processing etc. The auditor's recommendation is an unusual one, in that it is inconsistent with the standard industry practice. Nonetheless, due to the City's dependency on growth revenues, it is wise for the Finance Department to create a separate fund to ensure that surplus development revenues - beyond the administrative cost-recovery - are not used to provide other city services such as recreation, park maintenance, police, fire etc. This segregation of funds had occurred prior to my arrival, and continues in the proposed FY06-07 budget, as balanced.

Because local government revenues are both diverse and complex, it is important to note that the aforementioned explanation addresses operating revenues, not capital impact revenues. However, these latter revenues are also segregated into separate funds for each type of development impact fee - police, fire, general facilities, parks, streets, facilities etc. Thus, it is possible - at any given point in time - to determine the type of revenue, the amount paid to date, the expenditures against that revenue, and the remaining balance (fund balance) for that revenue.

Essentially, in summary, the City of Desert Hot Springs actually accounts for revenues and expenditures in far more detail than is required by GAAP and GASB reporting. Audits of each and every fund are conducted annually, as required by State law. The City of Desert Hot Springs has never failed to comply with that requirement, and has provided this information to State Auditor-Controller for compliance by September 30 as required.

3. **Segregation of Duties** - I am aware of past practices and explanations as to multiple duties assigned to the City Manager. I am not in a position to comment on those practices, but can state affirmatively that there is presently a significant check and balance on assigned duties and responsibilities among executive staff, as well as City

Council appointees. The City Attorney and City Manager report to the City Council directly and independently. As the City Council proceeds with securing the legal services of a full-service, experienced City Attorney, that office will provide the necessary checks and balances on the administrative organization, which is expected and implicit in the city manager form of government.

To ensure arms length transactions, and to remain consistent with California municipal organizational practices, our present organizational structure includes a City Clerk; Police Chief; Fire Chief (CDF contract); Finance Director; Human Resources Director; Public Works Director (City Engineer); Community Development Director – each of which report to the City Manager. The City Council has directed the City Manager to complete a comprehensive classification system, with detailed job descriptions and duties, for each city position. These job descriptions also include minimum education and experience requirements to attain the position.

The City Manager does not serve in dual capacity in any required role under State law, such as Chief Building Official, City Engineer, or Zoning Administrator. The present organizational structure is consistent with the vast majority of cities in this state of comparable size.

4. ***Employee Personnel Practices*** – The City of Desert Hot Springs has employed a Human Resources (Personnel) Director for approximately 14 months. During that time, the Director also served in an organization that was experiencing significant change in policy and administrative direction, including interim City Managers as referenced above.

During the past 120 days, in conjunction with the City Manager, the Human Resources Director has created a City Council Sub-Committee on Human Resources; finalized a complete revision of the City's Personnel Rules and Regulations, awaiting only final legal review by the soon to be appointed City Attorney; rewritten and revised Memorandums of Understanding (MOUs) for the existing two bargaining units; prepared MOUs for an additional three bargaining units as are common in the industry; and, completed a revised resolution on employer-employee relations as required under the Meyer-Millas-Brown Act. The revised MOUs include, again, as is standard in the industry, a detailed process for grievance procedures, Skelly rights, and Police Officer's Bill of Rights, as applicable.

Whereas the City appreciates the sample form from the County of Riverside for proposed use by Human Resources, as City Manager, and the ultimate authority on employee relations with the City, I prefer that exempt staff, including executive staff, operate under MOUs. This is becoming the rule rather than the exception in municipal government, particularly in view of the fact that most experienced personnel attorneys will verify that "at will" employment is virtually non-existent in California. Case law and legislation have created numerous "protected classes" which supersede an "at will" status. Thus, from experience, it is my opinion that an MOU or employment agreement is far more effective when defining obligations, expectations, terms and conditions of employment, including severance and termination, of a City's executive staff.

The various MOUs have been delayed due to the City's recent Reduction in Force (RIF). The RIF was required to balance the City's budget. However, with budget approval, the City Manager and Human Resources Director are now in a position to complete negotiations on these MOUs and secure City Council approval, anticipated by December 2006.

5. **Employment Verification** – As previously mentioned, a complete revision of the City's classification system is now underway by an independent consultant. Each job class will have a specific job description with defined duties, including requisite degrees, licenses, and certifications. Departments are no longer allowed to verify references and backgrounds for applicants. The personnel recruitment and selection process is centralized in Human Resources, as appropriate and customary. Where experience substitutes for degrees, it is allowed on a two for one basis only. Where degrees are listed, the institution of higher learning must be accredited. Police officer background checks are now completed by a P.O.S.T. certified background investigator, coordinated through Human Resources. This ensures both independence and objectivity. The Human Resources Director may employ an outside consultant for reference checks, if desired. In addition to references, the City also checks driver's records and criminal records.

Without compromising issues exclusively germane and confidential to the City of Desert Hot Springs, I believe I have provided as much detail as possible in addressing the recommendations of the Grand Jury Report. Given the timeliness of the response, I would request the opportunity to provide additional information, via the City Attorney, should that individual/firm deem it necessary to respond further.

Please contact me should you have any questions regarding my responses to the report recommendations.

Sincerely,



Ann Marie Gallant
City Manager

Attachment: Grand Jury Report, June 2006

c: Mayor and Members of the City Council
City Attorney