

2013-2014 GRAND JURY REPORT

City of Blythe City Council

Background

The City of Blythe (City) is a general law city that was incorporated in 1916. The City has a “Council-Manager” form of municipal government. The City Council appoints the city manager who is responsible for the day to day administration of City business and the coordination of all departments. The City Council is composed of five members elected bi-annually to alternating four-year terms.

The City is located on the far eastern end of Riverside County and encompasses an area of approximately 26.8 square miles and is situated 265 feet above sea level. Tourism is a major factor in its economy along with various agricultural businesses. Blythe has a population of 20,400 within the City limits which includes approximately 6,000 inmates currently housed in two nearby California state prisons.

Methodology

The 2013-2014 Riverside County Grand Jury (Grand Jury) interviewed several elected officials from the City and the County of Riverside (County). Sworn testimony was also obtained from several full time city employees including contract employees. Documentation in the form of financial statements, annual budgets and written correspondence between various city representatives was also obtained. Additional recorded and written transcripts of meetings were also evaluated.

Findings

1. Sworn testimony revealed that a member of the Blythe City Council, in preparation for a Blythe Chamber of Commerce sponsored music festival, directed a foreman of the Public Works Department (PWD) and his crew to begin grading a city park on May 14, 2013, without first obtaining approval from the city manager. A week later, on May 21, 2013, this same city councilman directed the same PWD foreman to perform additional grading duties on County property adjacent to this city park.

Further testimony revealed that the PWD foreman declined to do work on County land without direction from his PWD supervisor. The PWD supervisor advised the city councilman to obtain approval from the city manager. The city councilman subsequently contacted the city manager for approval. Testimony confirmed that the councilman was told by the city manager that since the secondary property he inquired about was on

County property, no work could be done by city employees without County approval. The councilman then contacted a Riverside County Board of Supervisor's office and obtained approval to grade the property. The councilman informed the city manager that the County approved the city's use of the land, but would not provide any resources to grade the property. The city manager then authorized the grading on the County property by PWD staff. The city manager operates under the budget approved by the City Council.

Blythe Municipal Code (Ord. 356 §7(o), 1967) states as follows:

2.04.220 Powers and duties--Council-manager relations.

The city council and its members shall deal with the administrative services of the city only through the city manager, except for the purpose of inquiry, and neither the city council nor any member thereof shall give orders to any subordinates of the city manager. The city manager shall take his orders and instructions from the city council only when sitting in a duly held meeting of the city council and no individual councilman shall give any orders or instructions to the city manager.

Blythe Municipal Code (Ord. 356 §7(b), 1967) states:

2.04.090 Powers and duties—Authority over employees.

It shall be the duty of the city manager, and he shall have the authority, control, order and give directions to all heads of departments and to subordinate officers and employees of the city under his jurisdiction through their department heads.

Currently the League of California Cities provides annual training to local elected officials. The program provides the state mandated AB1234 Ethics course and is the first of three stages for leadership levels for these elected officials including a review of government codes. This training was made available to newly elected city council members. However, one council member chose not to attend the training. The City Attorney provided the mandated ethics training to this city councilman.

2. The Blythe City Council, at its February 26, 2013, meeting, voted to approve a donation of \$6,350 of the city's promotional budget to be given to the Blythe Chamber of Commerce (Chamber). This money was to be used to pay for the bands that would perform for the second annual Blythe "Blues Fest" at Quechan Marina and Park (Park). The expenses for this event included \$4,700 for the bands. The City's donation was also used

to cover the bands' other expenses for staging, generators and payments to vendors. Evidence provided indicated that the over \$21,000 generated total income included the City's donation. In addition to the City's contribution, the Chamber sold sponsorships, refreshments and souvenirs. The total expenses incurred by the Chamber for this event was \$17,560.

At the conclusion of the event, the Chamber netted \$4,032 and subsequently presented the City with a donation of \$2,275 to be used for the Blythe Recreation Center.

Evidence obtained by the Grand Jury indicated that the PWD began work on the Park on May 14, 2013, and finished May 24, 2013. Sworn testimony indicated that the city manager first became aware of work on the park May 21, 2013. On May 21, 2013, the city manager estimated the total cost of the work to be \$4,000, and approved the completion of the job. However, the City incurred approximately \$16,500 in expenses to prepare the Park for the event, instead of \$4,000 originally estimated by the city manager during the preparation of the Park for the event.

The City was not compensated by the Chamber for the \$16,500 to prepare the park for the event. The City Council did not approve additional promotional funds for the Chamber's allocated event.

3. The City acquired Quechan Marina and Park (Park) from the County on November 27, 2012. This Park covers 27.4 acres and is situated on the Colorado River in the eastern part of Riverside County. Originally, the County owned the Park, and leased it to the City with the City operating the Park. Pursuant to the County's "Master Plan" for this Park, the list of phases of development included turning over the property to the City for ownership. According to sworn testimony, the City has not developed specific operating guidelines to run this Park since the City acquired the Park from the County.

The Park is for day use only for recreation and to launch boats. The City assigned a volunteer to be a "Park Host". This volunteer's main job was to provide a presence, "encourage compliance with park rules and regulations" and essentially be the "eyes and ears" of the City. Under the volunteer's "Agreement for Camp Host Volunteer Services" with the City, the volunteer duties included verifying payment for Park services by visitors, performing light housekeeping and janitorial duties and handling litter removal. These volunteer duties were done in exchange for a free place to park a motorhome/trailer with free sewer and water hook-up. In the Agreement, the volunteer agreed to pay for the electricity. However, sworn testimony revealed the volunteer was never billed for several months of electricity usage, and thus did not pay for any electricity as outlined in the Agreement. There was no initial reading of the electric

meter when the volunteer moved in to provide a baseline measurement before an electric bill could be produced.

4. Sworn testimony and council minutes stated that a newly elected councilman, at his first council meeting on December 13, 2011, called for the dismissal of the city's chief of police and made allegations against the chief without providing any proof or documentation. The City Council later voted in a closed session on January 24, 2012, to have this councilman meet with the chief, the mayor and the city manager. The city attorney was present at this closed session meeting. Additional testimony corroborated that the reason for this gathering was to "repair the bad feelings" between the councilman and the chief.

The involved parties gathered at a city hall meeting room on January 31, 2012. The gathering resulted in an interrogation of the chief by a councilman, which was in violation of California Government Code §3303 (b) (c) (e). California Government Code §3300-3313 is known as the "Peace Officer's Bill of Rights" (POBR) and provides specific protections for peace officers. California Government Code §3303 is included in the POBR that states in part:

When any public safety officer is under investigation and subjected to interrogation by his or her commanding officer, or any other member of the employing public safety department, that could lead to punitive action, the interrogation shall be conducted under the following conditions. For the purpose of this chapter, punitive action means any action that may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment.

- (b) *The public safety officer under investigation shall be informed prior to the interrogation of the rank, name, and command of the officer in charge of the interrogation, the interrogating officers, and all other persons to be present during the interrogation. All questions directed to the public safety officer under interrogation shall be asked by and through no more than two interrogators at one time.*
- (c) *The public safety officer under investigation shall be informed of the nature of the investigation prior to any interrogation.*
- (e) *The public safety officer under interrogation shall not be subjected to offensive language or threatened with punitive action, except that an officer refusing to respond to questions or submit to interrogations shall be informed that*

failure to answer questions directly related to the investigation or interrogation may result in punitive action. No promise of reward shall be made as an inducement to answering any question. The employer shall not cause the public safety officer under interrogation to be subjected to visits by the press or news media without his or her express consent nor shall his or her home address or photograph be given to the press or news media without his or her express consent.

This section shall not apply to any interrogation of a public safety officer in the normal course of duty, counseling, instruction, or informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or any other public safety officer, nor shall this section apply to an investigation concerned solely and directly with alleged criminal activities...

The allegations against the chief were:

1. *A huge divide within the department*
2. *The majority of the department is dysfunctional*
3. *The majority of the department is filled with officers who feel threatened and intimidated by a bullying chief, and*
4. *The safety of Blythe residents is being compromised.*

The councilman was asked if he had any proof or documentation of these accusations. The councilman stated that he did not have any proof or documentation and that his sources were secret. The President of the Blythe Police Organization Association made the following statements:

I checked into these allegations myself and found them to be inaccurate and erroneous. The Union reached out to the membership, finding that the responses from union members did not validate the councilman's accusations.

A closed session of the City Council was called on February 14, 2012, to discuss the outcome of the January 31, 2012, gathering and the accusations brought forth by a city councilman. The City Council agreed to close the subject since no evidence was presented against the chief.

During the subsequent open session of February 14, 2012, the accusing councilman continued to express his concerns about the chief's performance. The city attorney had to step in and admonish the councilman to cease his verbal remarks.

The city attorney's current contract with the City of Blythe includes the following:

The city attorney shall attend all City Council meetings and other meetings, as required, and be available at all reasonable times to the mayor and City Council, the city manager, and persons designated by this agreement.

Recommendations

City of Blythe, City Council City of Blythe, City Manager

1. The Blythe City Council shall ensure that each newly-elected city council member is provided formal training regarding policies and procedures on communication between council members and city employees. Emphasis should be made that use of city employees and city resources without approval from the city manager is prohibited. Additionally, the Blythe City Council shall annually provide a refresher course to all city council members on proper policies and procedures required to function as a city council member and dealing with other city government departments.
2. The city manager shall ensure that all City employees receive appropriate training on the policies and procedures for approval and implementation of work assignments. This training shall include a review of City ordinances and the chain of command approval process.

The City Council shall be responsible for the spending of City funds on promotional events. If other costs for promotional events are generated, then additional authorization needs to be obtained to avoid unauthorized spending.

3. The Blythe City Council shall prepare and implement an operations manual for Quechan Marina and Park including duties of a Park Host. The manual shall require the Park Host's electric meter be read before any electricity is used by the Park Host.
4. The City Council shall ensure that when scheduled informal gatherings by elected officials occur and the purpose of the gathering changes to include personnel matters, the informal discussions shall cease immediately and be rescheduled to a formal meeting of the elected officials and include posting of an agenda and be attended by the city attorney.

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