

2008-2009 SAN BERNARDINO COUNTY GRAND JURY

PUBLIC AND SUPPORT SERVICES GROUP

REPORT ON THE JOSHUA BASIN WATER DISTRICT

BACKGROUND

On September 5, 2007, a citizen's complaint was submitted to the 2007-2008 San Bernardino Grand Jury against the Joshua Basin Water District (JBWD). The 2007-2008 Grand Jury was unable to respond to the complaint because of time limitations and referred the complaint to the 2008-2009 Grand Jury.

The complaint made two allegations against the Joshua Basin Water District: (1) JBWD expended public money on engineering and planning studies for sewer construction in Joshua Tree prior to receiving authorization from the Local Agency Formation Commission (LAFCO), and (2) JBWD expended public money in an attempt to purchase county tax sale property for a sewer treatment plant, but JBWD did not have authority from LAFCO to purchase property for this use.

JURISDICTION

The Grand Jury has jurisdiction over this matter pursuant to Penal Code Sections 933.5 and 918.

INVESTIGATION

The 2008-2009 San Bernardino County Grand Jury reviewed the allegations and the documents provided. The Grand Jury also conducted a comprehensive review of the procedures followed by the JBWD in its dealings with LAFCO to provide sewer treatment services. Documents provided by the JBWD were reviewed, and a managerial employee of JBWD was interviewed.

ALLEGATION ONE

Facts

Joshua Basin Water District did expend approximately \$40,000 from November 30, 2005 to June 30, 2006, for two feasibility studies: 1) "Joshua Basin Water District Wastewater Feasibility Study" dated May 31, 2006; and 2) "Joshua Basin Package Wastewater Treatment Plant Feasibility Report" dated April 7, 2006, rev. May 23, 2006. LAFCO granted JBWD authority to provide sewer treatment services through package sewer treatment plants and to plan and engineer sewer services on August 15, 2007.

LAFCO requires agencies requesting new authority from LAFCO to include the following information with the application form:

- A statement of the nature of the proposal and the reason therefore, and shall include (but not be limited to) general plan, growth rate, topography, and economic feasibility.
- A “Plan for Service” as defined in Government Code Section 56824.12.
- A legal description and map of the territory which is the subject of the proposal.

Government Code Section 56824.12 requires:

- The total estimated cost to provide the new or different function or class of services.
- The estimated cost of the new or different function or class of service to customers.
- An identification of the existing providers and the potential fiscal impacts to the customers of the existing providers.
- A plan for financing the new or different function or class of service; and
- Alternatives for the establishment of the new or different function or class of service.

Findings

JBWD made expenditures for feasibility studies that provided information required by LAFCO and state law as part of the application process for new authority. The expenditures by JBWD for the feasibility studies were reasonable and appropriate. The Grand Jury found no evidence of other expenditures by JBWD related to planning or engineering for sewer services.

ALLEGATION TWO

Facts

On April 4, 2007, the board of directors for JBWD passed a resolution requesting that JBWD be allowed to purchase a tax-defaulted property for the development of a sewer treatment plant. Subsequent to the passage of the resolution, LAFCO informed JBWD that the District did not have the authority to purchase property for a sewer treatment plant prior to LAFCO granting JBWD sewer service authority. Before the sale of the property, the property owner paid the taxes on the property and removed the property from the tax default list.

Findings

JBWD did not expend any public monies to purchase property for a sewer treatment plant. The JBWD board of directors did not have authority from LAFCO to purchase property for a sewer treatment plant when the board of directors approved the April 4, 2007 resolution. However, the board’s approval of the resolution did not materially violate any law warranting further investigation or action.

PENAL CODE SECTION 933.05 RESPONSE

No response to the Grand Jury findings is requested from JBWD.