

ADMINISTRATIVE COMMITTEE



*Back – JoAnn Miller, Roy Nierman-Chair, Elias Valdez, Gary Moran
Center – Carol Sharp, Lois Long, Roderic Moers
Front – Ellen Miller, Jeanne Choisset*



ADMINISTRATIVE COMMITTEE

The Administrative Committee investigated the following boards, departments and agencies:

Architecture and Engineering
303 Building
Board of Supervisors
County Administrative Office
Ethics Officer
County Counsel
Human Resources
Information Services
Public Health
Animal Care and Control
Vector Control Program
Risk Management
Solid Waste Management

Four committee members attended all of the Board of Supervisors' meetings on Tuesdays.

The committee received one complaint, which resulted in a final report on Solid Waste Management.

The Administrative Committee and the Public and Support Services Committee jointly investigated the 303 Building which resulted in a final report.

A comprehensive investigation of the Board of Supervisors and County Counsel has resulted in a final report.

On behalf of all members of the Administrative Committee, we thank the members of the Board of Supervisors, the County Counsel and her staff, and all department heads for their cooperation and support during our term.

The actions of the Administrative Committee resulted in the following findings and recommendations.

ARCHITECTURE AND ENGINEERING

303 BUILDING

BACKGROUND

On May 17, 2005, San Bernardino County Supervisors and 303 LLC, a Limited Liability Corporation, concluded a negotiation for the purchase of a building herein after called "303 building."

Those departments included in the negotiations from San Bernardino County were the Board of Supervisors, Real Estate Services, County Counsel, and Architecture and Engineering.

The purchase agreement for the building was \$4,625,000 with many fees and payments added.

The following departments were involved in the purchase:

1. Real Estate Services negotiated the cost structure.
2. County Counsel reviewed the sale contract.
3. Architecture and Engineering was involved, providing cost estimating and timetable's aspect.

FINDINGS

The 303 building was purchased for \$4,625,000.

There was a representation by 303 LLC, based on a consulting services survey they initiated, that approximately \$10,000 abatement costs would make the building habitable.

The County has now spent \$637,647 for asbestos removal (see Board of Supervisors agenda of July 11, 2006) and \$360,432 for lead-based paint removal (see Board of Supervisors agenda of October 31, 2006).

The County did not perform any environmental surveys prior to purchase, but relied on a survey by a consulting service hired by 303 LLC.

RECOMMENDATIONS

- 07-01 COUNTY AGENCIES CONDUCT THEIR OWN ENVIRONMENTAL SURVEYS BEFORE THE PURCHASE OF ANY LAND OR BUILDING.
- 07-02 THAT COUNTY COUNSEL INSURE ALL ENVIRONMENTAL SURVEYS ARE COMPLETED BY THE COUNTY BEFORE AGREEING TO "AS IS" OR "WITH ALL FAULTS" PURCHASES.
- 07-03 THAT COUNTY COUNSEL PURSUE REIMBURSEMENT FOR COUNTY ABATEMENT COSTS OF:
 - a. ASBESTOS REMOVAL \$637,647
 - b. LEAD-BASE PAINT REMOVAL \$360,432.

BOARD OF SUPERVISORS

BACKGROUND

This report concerning the Board of Supervisors was initiated after reviewing a barrage of negative information being reported by the news media that appeared to reflect a breakdown in trust, communications and cooperation between members of the Board of Supervisors. The appearance of a dysfunctional Board of Supervisors was further compounded by unknown media leaks and comments voiced to the news media concerning various Board of Supervisors decisions.

The concern was that a dysfunctional elected Board of Supervisors was not in the best interest of those citizens who had placed their trust in their elected representatives.

Public confidence in the effectiveness of the Board of Supervisors can be eroded by a breakdown in trust, communications, cooperation and improper or unlawful conduct by the Board of Supervisors as a whole or by any of its members acting alone. Conversely, information about the Board of Supervisors based on conjecture, unfounded information based on rumor or innuendo can also present an image of dysfunction not based on fact.

Penal Code 925 states "The grand jury shall investigate and report on the operation, accounts, and records of the officers, department, or function of the county including those operations, accounts and records of any special legislative district or other district in the county created pursuant to state law for which the officers of the county are serving in their ex-officio capacity as officers of the district."

The duty of the Grand Jury is to assist the citizens of San Bernardino County to determine the issues within the Board of Supervisors that may be causing the dysfunctional public perception and recommend the appropriate corrective action if needed.

The method that appeared to be the best alternative to ascertain the issues of the adverse dysfunctional perception was to question each Supervisor separately. A series of questions were formulated which were similar in nature yet geared to each Supervisor's district and background. The questions were structured with the purpose of determining what, if any, issues existed that were causing the dysfunction, and to bring these concerns to the attention of the Board of Supervisors. The questions were also constructed in a manner that would create a sense in each Supervisor's mind that there was a need to stop the discord and resolve the issues between Supervisors for the best interest of the citizens of their respective districts.

The second purpose for the questioning of each Supervisor was to determine if in fact the issue of dysfunction was based on erroneous information.

It should be noted that during the preliminary process of interviewing each Supervisor a problem developed that although each Supervisor had a great deal of important concerns in their respective districts, four of the five Supervisors understood the importance of the Grand Jury investigation and made time available in their respective calendars to appear before the Grand Jury. Several attempts were made to schedule an appointment for the appearance of the former Chairman of the Board of Supervisors. Two appointments scheduled before the Grand Jury were cancelled at the last moment by the former Chairman. The former Chairman gave no explanation why he was not able or willing to appear before the Grand Jury. The former Chairman was subsequently elected as the Assessor and no further attempts were made to interview him by this committee.

The newly elected Supervisor was interviewed on April 19, 2007. Some of the areas covered in the respective interviews with each Supervisor were:

1. Former County Counsel sudden retirement
2. Appointment of Interim County Counsel
3. Colonies Partners Limited, L.P. settlement
4. Gumpert Report concerning Maranatha Jail property purchase
5. Media leaks
6. Partisan Politics
7. Dysfunctional relationships between Supervisors

FINDINGS

It is important to preface the findings in this report by making the following remarks as they relate to the operations and functioning of San Bernardino County government.

It is important to remember that it is the people of the County who combine their pennies, nickels and dollars through various means into one County fund. The people then elect representatives (in this case a Supervisor) to administer the funds and provide services in the best interest of the people. The people place their trust in their elected representatives to work together and make those decisions, which may not be popular or accepted by all of the people, but are made in their best interest.

1. The available information determined that the decision to retire was voluntarily made by the former County Counsel.

The available information did reveal that a few days prior to the resignation the former Chairman of the Board of Supervisors had berated the County Counsel in an open workshop meeting, concerning the County Counsel's failure to follow Board direction and also made comments to the effect that outside use of legal counsel was being considered.

The inability to satisfy each Supervisor's needs and the discord between Supervisors was one of the deciding factors leading to the decision to retire by the County Counsel.

2. The former Chairman of the Board of Supervisors recommended and Supervisors approved of an Interim County Counsel, which was a proper procedure under County Charter: Article 2, Section 7, which states, "Any vacancy in a County office other than that of supervisor, shall be filled by the Board of Supervisors by appointment for the unexpired term." There was a concern as to the Supervisors' decision to bypass the Assistant County Counsel and the effect that the decision would have on the Colonies Partners Limited pending litigations by bringing in an Interim County Counsel with questionable knowledge of the critical litigation issues. There is no requirement in a County appointed position that the assistant to that department head automatically become the head or interim of the department.

This concern became a moot issue when the Board of Supervisors disregarded the expenditure of County funds already spent on outside legal representation, all legal counsel advice and settled the suit in favor of Colonies Partners Limited, L.P.

3. The available information at this time supports the premise that the Board of Supervisors' monetary settlement in favor of the Colonies Partners Limited, L.P. was a decision made by three of the five Supervisors after consideration of the available alternatives. The Board of Supervisors has the authority to make the final decision on this civil lawsuit. The Board of Supervisors can consider, but were not required to follow, legal advice in this civil matter.

4. The purchase of the Maranatha jail facility and the subsequent Gumport report has been reviewed and disclosed no violations of law. The overall examination of the issues involved with the Maranatha facility purchase and information contained in the Gumport report did result in some positive actions by the Board of Supervisors. The first action was to renegotiate the Platinum Advisory contract to allow the CAO to terminate the contract at any time. There was also a reporting requirement to the County by the Platinum lobby contract when an issue of possible conflict arose. The lobbyist, who was a central issue in the Gumport report, although still employed by Platinum, is not representing San Bernardino County. A second positive result was the acquiring of a 700-bed jail

facility needed by the Sheriff. The facility was placed into service in a relatively short time and at a substantially reduced cost considering the cost to build a new jail facility. New additions to the facility are in the planning stages.

5. The area concerning release of confidential information to the news media was reviewed, however the person or persons responsible for the releases were not ascertained. The available information does support the premise that the discord between members of the Board of Supervisors may have contributed to the release of confidential information.

6. Partisan politics in County government, although not legally allowed, cannot be proven to exist or discounted.

7. The major area of concern was the dysfunctional display of interaction by some members at Board of Supervisor meetings, negative comments that made their way into the news media and release of confidential information with the intent to place another in a negative position. These actions were clearly not in the best interest of the citizens of the County.

One of the reasons for the dysfunction of the Board was the failure of some members to place their personal feelings aside when debating an issue and the failure to recognize that others may not view the issue in the same way. The failure to resolve these long-standing differences further added to the dysfunctional perception of the Board.

When the available information is viewed in totality the blame for allowing the dysfunctional operation of the Board of Supervisors lies squarely on the shoulder of the former Chairman of the Board who was, at the time, the elected leader. The leadership did not take the necessary steps to resolve the issues that were the source of conflict between Board members.

The remaining Board of Supervisors also share in the blame for the dysfunctional operation due to their failure to take a leadership role in the conflict when the former Chairman did not take action to defuse or resolve the dysfunctional operation.

As a result of the overall inaction by the Board of Supervisors there was a continuing failure of cooperation, trust and communication between Supervisors; thus the dysfunctional perception. This perception continued until there was a change in the Chairman of the Board leadership in 2007.

COMMENDATION

The present Board of Supervisors, despite differences of opinion that may arise on County matters, appears to be functioning as a cohesive unit of County government for the benefit of the people. Credit for this positive change appears to be the new leadership and the manner in which he is able to listen and communicate with Board members. The positive change is also a credit to the cooperation exhibited by all Board members. The vast reduction in the amount of negative press by the news media concerning the Board of Supervisors is also a credit to them. The Board of Supervisors is also positively credited with the implementation of the new COUNTY VISION site on the County website, which will open up the avenues of information and may reduce the distrust of county government due to the lack of information.

The commendation to the Board of Supervisors is meant to be construed as a reminder that they are the elected representatives of the people, charged to act in the best interest of the citizens in their respective districts, and a dysfunctional Board of Supervisors is not in the best interest of the citizens of San Bernardino County.

COUNTY ADMINISTRATIVE OFFICER

BACKGROUND

The County Administrative Officer (CAO) is appointed by, and reports directly to, the Board of Supervisors. The CAO oversees the operations of County departments and assists in the coordination of activities of departments headed by elected officials.

FINDINGS

The CAO is responsible for the "Service First" workshop conducted for all employees of the County. "Service First" is a countywide customer service improvement program. The CAO believes this program has improved the workplace of the County. The "Service First" ideals have now been incorporated into the work performance evaluation process.

A background check for all employees is needed to insure the safety and integrity of the County and its employees. A background check policy was to be presented to the Board of Supervisors by January 2007.

Every department is required to submit a Business Plan to the CAO. The department must adhere to those plans once they are submitted to the Board of Supervisors.

RECOMMENDATIONS

- 07-04 CONTINUE THE "SERVICE FIRST" WORKSHOP PRESENTATIONS FOR ALL NEW EMPLOYEES.
- 07-05 TO INSURE THE SAFETY AND INTEGRITY OF THE COUNTY, EVERY EMPLOYEE WHO RECEIVES A PAYMENT FROM THE COUNTY BE REQUIRED TO PASS A BACKGROUND CHECK, INCLUDING PUBLIC OFFICE APPOINTEES AND BOARD OF SUPERVISORS STAFF.
- 07-06 THE COUNTY ADMINISTRATIVE OFFICER CONTINUE TO MONITOR THE BUSINESS PLANS OF ALL DEPARTMENTS.

HUMAN RESOURCES DEPARTMENT

BACKGROUND

The Grand Jury investigated the Human Resources Department since it learned that the County Administrative Officer stated at a "Service First" mandatory meeting that County employees will receive a timely and yearly Work Performance Evaluation (WPE). The County Administrative Officer has set a goal of at least a 90% completion rate and in past Grand Jury documentation it was indicated that a "Standard Background Check" would be implemented by January 2007.

FINDINGS

During a "Service First" presentation it was stated that there were over 3,700 WPE's which were clearly overdue. The current status now indicates that number at only 300-400. In fact, some employees are on extended sick leave or may be off work for an extended period of time and, therefore, the department cannot complete the WPE.

The goal of Human Resources, according to its Director, is to implement a "Standard Background Check" by January 2007. Human Resources was waiting for the reorganization of the Board of Supervisors before presenting it for approval. Human Resources will now proceed with the movement of the "Standard Background Check" policy to the County Administrative Officer, who supports it, and then to the five Board of Supervisor members for final approval.

The Director of Human Resources stated that his intention was to be open to suggestions and new ways of doing things. The Director stated that the following new ordinances and policies (personnel rules) have been implemented:

- a. Dress and Grooming Program
- b. Drug Testing, Alcohol Testing
- c. Revisions of the following:
 - i. Employee Relations Ordinance (bargaining units)
 - ii. Personnel Rules county-wide

iii. Policy and Procedures Manual

iv. "Resource Newsletter" to all County employees

RECOMMENDATIONS

- 07-07 THE HUMAN RESOURCES DEPARTMENT CONTINUE TO IMPLEMENT THE PROGRAM THAT GIVES EACH COUNTY EMPLOYEE A YEARLY AND TIMELY WORK PERFORMANCE EVALUATION (WPE).
- 07-08 THE HUMAN RESOURCES DEPARTMENT CONTINUE TO MAKE A CONCERTED EFFORT TO IMPLEMENT A "STANDARD BACKGROUND CHECK" AND MOVE THE POLICY TO THE COUNTY ADMINISTRATIVE OFFICER AND TO THE BOARD OF SUPERVISORS IN A TIMELY MANNER.
- 07-09 THE HUMAN RESOURCES DEPARTMENT CONTINUE TO REVISE AND IMPLEMENT THE (1) STANDARDIZED DRESS AND GROOMING PROGRAM; (2) DRUG TESTING AND ALCOHOL TESTING; AND (3) THE REVISIONS OF THE POLICIES AND PROCEDURES AS INDICATED ABOVE.

INFORMATION SERVICES DEPARTMENT

BACKGROUND

The Grand Jury's review was to identify areas that the newly appointed Chief Information Officer may need to modify to improve overall operations of the Information Services Department (ISD).

ISD provides County service in five major areas: (1) Network Services, (2) Application Development and Support, (3) Information Technology Customer Service, (4) Technology Operations, and (5) Core and Security.

In the past five years there have been two Grand Jury reviews of the Information Services Department. Recommendations concerned replacement and disposing, donation of old computers, and determining the cost benefit of having ISD service all County computers. The 2004/2005 Grand Jury commended the ISD for creation and implementation of the Grand Jury webpage.

FINDINGS

The Analog 800MHz radio communication support system and equipment in current use by most County law enforcement agencies, and various other County departments is over 15 years old. ISD is currently in the process of converting the internal operating system presently in use in the support system, handheld devices and car radios to a lower frequency within the 800 MHz Analog bandwidth system, due to extreme high volume usage in the 800 MHz bandwidth.

In the future, it is going to become increasingly difficult to obtain replacement parts for the present analog system. ISD is reviewing the feasibility and cost factors associated with converting to a countywide digital communications system. Estimated cost to convert just the communications support infrastructure is \$250 million and does not include the actual cost of digital radio units.

The County currently has 4,970 County owned one-way pagers in use. The County also has 441 "Blackberry" and 69 "Goodlink" communication devices in use. The Blackberry and Goodlink devices provide a two-way improved communication link for County personnel.

ISD is currently working on improving the functionality of the new Geographic Information System (GIS). This system will provide improved aerial views of County properties when required by County departments.

RECOMMENDATIONS

- 07-10 DETERMINE FEASIBILITY AND COST FACTORS TO IMPLEMENT A COUNTYWIDE DIGITAL RADIO COMMUNICATIONS SYSTEM.

- 07-11 IMPLEMENT A DIALOG WITH CONCERNED DEPARTMENTS USING THE COUNTY ANALOG COMMUNICATIONS SYSTEM TO DISCUSS ANALOG ISSUES, PREPARE A PLANNED COURSE OF ACTION AND DETERMINE AVAILABLE FUNDING RESOURCES TO CONVERT TO A COUNTYWIDE **DIGITAL** COMMUNICATIONS SYSTEM AT A FUTURE DATE.

- 07-12 REVIEW THE CURRENT ONE-WAY PAGER, BLACKBERRY/GOODLINK COMMUNICATION SYSTEMS TO DETERMINE NEED, USAGE AND COST EFFECTIVENESS.

PUBLIC HEALTH DEPARTMENT

ANIMAL CARE AND CONTROL

BACKGROUND

The present Grand Jury looked at Animal Care and Control, regarding the 2004-05 Grand Jury concerns on safety and security at the Devore Animal Shelter. The length of time an animal is held was also investigated. Animal Care and Control takes in over 12,000 animals a year. The shelter started in 1985 with 40 kennel runs, and currently has over 90 kennel runs.

FINDINGS

Animal Care and Control has installed high fences and security cameras at the Devore Animal Shelter. They presently have a full-time security guard. There have been no break-ins since security measures were implemented. The shelter has been painted, is clean and well organized. Animals are scanned for identification chips and photographed immediately upon arrival. Photos and other information are placed on the lost pet website: www.sbcounty.gov/acc.

Animals are held for a minimum of five days (State law requires four days). When space is available, animals that are "adoptable" are kept for a longer period or placed with a certified rescue group. A larger facility would allow animals to be held for a longer period for adoption.

People/families looking to adopt a pet view animals in their cages. There is insufficient space for interaction between animals and people/families.

A veterinarian comes to the shelter three times a week to check and treat animals on site. Multiple shelters in the Central Valley of San Bernardino County duplicated animal care, adoption procedures and veterinarian care. The County assists with spay/neuter costs through a voucher program.

COMMENDATION

The Animal Shelter is located in a rural area; the security measures taken with higher fences, security cameras and a full-time security guard make the shelter a safer

place for staff and animals. The department and County are to be commended for implementing safety and security recommendations of the 2004-05 Grand Jury.

RECOMMENDATIONS

- 07-13 COMBINE THE EXISTING MULTIPLE ANIMAL CARE AND CONTROL FACILITIES IN THE CENTRAL VALLEY INTO A LARGER REGIONAL FACILITY BY USING JOINT POWERS AGREEMENTS (JPA) OF NEIGHBORING COMMUNITIES INCLUDING THE CITY OF SAN BERNARDINO.
- 07-14 EMPLOY A FULL-TIME VETERINARIAN TO PROVIDE CARE, SPAY AND NEUTERING AT A REGIONALIZED CONTROL CENTER.
- 07-15 PROVIDE MORE SPACE IN AN ADOPTION CENTER WHERE PEOPLE/FAMILIES CAN INTERACT WITH PROSPECTIVE ADOPTIVE PETS.

VECTOR CONTROL PROGRAM

BACKGROUND

Among the services provided by the San Bernardino County Department of Public Health is the Vector Control Program of the Environmental Health Services Division. (Vector has been defined as a carrier). Vector Control denotes control of vectors and vector-borne diseases by any insect or animal that could cause health hazards to humans or other animals. The Vector Control Program is both proactive and reactive.

There are two components of the program important to the control of vectors and vector-borne diseases throughout the County.

1. The program has a comprehensive surveillance plan that routinely performs surveys of mosquito, rodent and tick populations. It further evaluates the prevalence of diseases such as West Nile, encephalitis, plague, Hantavirus, Lyme, and others.
2. The program also provides prompt response to County residents' requests.

Visits were made to Vector Control facilities to get an overview of the department. The Vector Control Program has an administrative office in the County Government Center and a field office on Fifth Street in San Bernardino. The field office is what drew our attention.

FINDINGS

The field office facility was designed to accommodate a staff of eight and currently serves a staff of 21. It is extremely crowded. A Capital Improvement Plan (CIP) for a new facility has been prepared and is going through the process. A new site near freeway access would reduce unnecessary travel time.

The department is adequately staffed with trained professionals supplemented with seasonal staff when needed. The seasonal staff mostly comes from colleges and universities. There is no plan to add more staff at this time.

The 5,000 square foot building includes offices, laboratory, equipment storage, locker room with a changing area shared by men and women, conference room, indoor parking/garage and supply storage.

An additional 5,000 square foot of outdoor space is taken up by four Sea Train shipping containers; two are modified to accommodate offices and two for storage of chemicals and fuel. These containers are not compliant with the American Disabilities Act. On site is a chicken flock and hatchery tubs for mosquito fish.

There is no space at this site for expansion of any kind. The construction of a new facility will allow for future expansion of the program and added staff to accommodate the expected population growth and to better respond to the concerns regarding vectors and vector-borne diseases from County residents.

Testing is done in the field and in an onsite lab manned by the Vector Ecologist. Testing is also contracted out to University of California, Davis, and University of California, Riverside, facilities. The San Bernardino Vector Control lab is crowded. Sometimes lunches and lab specimens end up in the same refrigerator. There is an exit door in the lab going directly outside; this could compromise the integrity of the lab.

The Vector Control Program includes County lands and West End cities served by Special Districts. Communication is good between public and private agencies, which results in no duplication of Vector Control services. State grants are available; some desert cities did apply for grants up to \$20,000 each while others have not applied for grants.

Vehicles and equipment are parked outside. Though there is an effort to put sensitive equipment indoors at night, there is not always room. Vandalism in the past has caused some loss of fuel and equipment.

RECOMMENDATIONS

- 07-16 IMPLEMENT THE CAPITAL IMPROVEMENT PLAN (CIP) IMMEDIATELY TO ACQUIRE A NEW CENTRALIZED SITE WITH FREEWAY ACCESS TO CUT DOWN ON TRAVEL TIME FROM THE FACILITY TO THE JOB SITE(S).

- 07-17 THE FACILITY INCLUDE SEPARATE DRESSING ROOMS AND SHOWERS FOR MEN AND WOMEN STAFF.

- 07-18 PROVIDE MORE SPACE FOR PERSONNEL, SPECIMENS, STORAGE AND SENSITIVE EQUIPMENT, IN THE LAB.

- 07-19 IN THE INTEREST OF PUBLIC HEALTH, THE COUNTY HEALTH DEPARTMENT DEVELOP A PROGRAM TO ENCOURAGE DESERT CITIES TO BECOME MORE ACTIVE IN VECTOR CONTROL ACTIVITIES TO SAFEGUARD THE CITIZENS BY APPLYING FOR AVAILABLE STATE GRANTS.

- 07-20 SECURE INDOOR PARKING OF VEHICLES EQUIPPED WITH SPRAYERS, AND OTHER EQUIPMENT.

RISK MANAGEMENT DEPARTMENT

BACKGROUND

The Grand Jury decided to conduct a review of this newly created department, which was formerly a division within the Human Services Department. It was the Grand Jury's understanding that the County Administrative Officer (CAO) transferred the Risk Management Division to his direct supervision and upgraded it to departmental status. An interview with the department Director took place and the Grand Jury had an opportunity to ask questions and gain more understanding of its function.

FINDINGS

Risk Management was originally under the Human Resource's Department. It is now a complete and separate department in the County under the CAO. This change afforded the Department more visibility in the County organization and allowed its director full access to the CAO in regard to its function as managing insurance agent for the County, managing claims for Worker's Compensation and dealing with medical malpractice claims for Arrowhead Regional Medical Center (ARMC) and third part tort claims against the County.

The importance of the Risk Management Department's upgrade and placement under the direct supervision of the CAO is recognized. The County's liability and self-insured status, workman's compensation claims and medical malpractice claims for ARMC are serious and grave issues for governmental entities.

The department places strong emphasis on ergonomics in the workplaces of County employees.

The Director has expanded the Risk Management website on the County Intranet. On this new site, there is a warning to County employees which states "employees are under the watchful eye of a camera."

"Background checks" of employees needs to be resolved. The Director stated that the CAO will move forward to set forth a clear policy that every County employee will have the standard background check. This new policy is to move forward to the Board of Supervisors (BOS) forthwith.

RECOMMENDATIONS

- 07-21 RISK MANAGEMENT REMAIN A SEPARATE DEPARTMENT REPORTING DIRECTLY TO THE COUNTY ADMINISTRATIVE OFFICER.
- 07-22 THE NEW RISK MANAGEMENT "USER-FRIENDLY" WEBSITE FOR USE BY COUNTY EMPLOYEES BE MAINTAINED AND CONTINUED.
- 07-23 EVERY COUNTY EMPLOYEE BE REQUIRED TO PASS A STANDARD BACKGROUND CHECK.

SOLID WASTE MANAGEMENT

BACKGROUND

During a Grand Jury investigation of a citizen complaint concerning a city's use of environmental mitigation funds (EMF), several areas of concern came to our attention. These concerns related to Solid Waste Management Memorandums of Understanding (MOU's) with various cities in which San Bernardino County landfills are located.

FINDINGS

The Solid Waste Management Division has entered into many MOU's with various cities concerning landfills that are located within that city's boundaries or sphere of influence. Each city is paid the following amounts:

<u>LANDFILL</u>	<u>CITY</u>	<u>RATE PER TON</u>
Mid Valley	Fontana	\$2.69
	Rialto	\$2.69
San Timoteo	Redlands	\$1.00
Colton	Colton	\$1.00
Victorville	Victorville	\$.50
Barstow	Barstow	\$.50
29 Palms	29 Palms	\$.50
Landers	Yucca Valley	no fee

Mid Valley pays tonnage rates more than five times greater than other landfills.

These MOU's provide for:

1. Distribution of money from the Environmental Mitigation Fund.
2. Eligibility for funding.
3. Criteria for funding.
4. Funding formula.
5. Payment method.

6. The Nexus Test (A project satisfies the "Nexus Test" if the project's primary purpose and effect is to alleviate or to reduce the magnitude or the significance of an adverse condition affecting the city. This adverse condition must result from the presence of the current and/or expanded landfill).

All monies from the EMF paid to a city must be used by that city relative to the criteria established under the "Nexus Test".

All cities warrant that they will use fees only on projects that meet the "Nexus Test".

The cities of Rialto and Fontana are presently each paid approximately \$2 million per year. Rialto was prepaid \$14 million in 1998 in order to build a new police station. That police station has never been built. Rialto has been prepaid for tonnage until approximately 2012.

The MOU's with all cities except Fontana and Rialto require that:

1. The city keeps records necessary to establish the use of EMF monies for five years after use.
2. All use of EMF monies is subject to audit by the County, as it deems necessary.

If a city fails to satisfy the "Nexus Test", the funds are to be returned to the County for placement in the EMF until a project to use the funds meets the "Nexus Test".

Solid Waste Management has never conducted or requested an audit, has no procedure for requesting an audit, and has no knowledge of whether any city is misusing EMF monies.

RECOMMENDATIONS

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| 07-24 | SOLID WASTE MANAGEMENT SET UP A PROCEDURE TO AUDIT THE USE OF EMF FUNDS. |
| 07-25 | IF CITIES ARE NOT USING EMF FUNDS PURSUANT TO THE MOU, SOLID WASTE MANAGEMENT REQUEST THAT THOSE FUNDS BE RETURNED TO THE COUNTY PURSUANT TO THE MOU. |

- 07-26 IF FONTANA AND RIALTO CANNOT MEET THE "NEXUS TEST", THEN SOLID WASTE MANAGEMENT RENEGOTIATE THE TONNAGE RATES PAID TO FONTANA AND RIALTO IN LIEU OF REQUIRING THOSE CITIES TO MEET THE "NEXUS TEST".
- 07-27 THE COUNTY COUNSEL'S OFFICE INCLUDE IN ALL ENVIRONMENTAL MITIGATION FUNDS MOU'S THE REQUIREMENT THAT EACH CITY KEEP RECORDS FOR FIVE YEARS AND THAT THE COUNTY CAN AUDIT THE EMF MONIES AS IT DEEMS NECESSARY.