

COMPLAINTS

Robert R. Dunlap, Chair

Becky Fults

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COMPLAINTS COMMITTEE

The Grand Jury receives complaints throughout the year coming from the residents of San Bernardino County. They are also accepted from various agencies and other entities.

The purpose of this committee is to review all complaints and determine if the Grand Jury has jurisdiction to investigate the complaint. If jurisdiction is confirmed, and the complaint warrants investigation, it is assigned to an appropriate committee. In some cases, an ad hoc committee is formed to handle the complaint. Complaints are typically received on an official Complaint Form. Although the Grand Jury normally does not investigate unsigned complaints, sometimes, depending on the issue, it will conduct an investigation from an anonymous source.

The 2010-2011 Grand Jury received 48 new complaints, with 12 complaints referred from the 2009-2010 Grand Jury, for a total of 60 complaints. Of those, 15 were assigned and investigated; four of which were directly or indirectly responsible for final reports. Forty-three complaints were not within the jurisdiction of the Grand Jury. The remaining two complaints are being referred to the 2011-2012 Grand Jury.

ECONOMIC DEVELOPMENT COMMITTEE

James Goodrich, Chair

Alfred J. Dubiel

Becky Fults

Ever Marie James

Melinda O'Connor

Miguel A. Ibarra

Wayne L. King



ECONOMIC DEVELOPMENT COMMITTEE

Introduction

The Economic Development Committee had the responsibility of reviewing economic development operations in the following county departments, cities and/or agencies:

- Economic Development Agency
- Housing and Community Development
- Redevelopment Agency
- Workforce Development Agency
- Cities/Municipalities
- School Districts and Community College districts
- Special Districts

Agencies, Cities, and/or Departments that were reviewed are:

- Big Bear Lake City
- City of Rialto – Building Code Enforcement
- Community of Baker
- Lucerne Valley School District
- San Bernardino City Economic Development Department
- San Bernardino County Economic Development Agency
- Special Water Districts

The Economic Development Committee submitted reports on the following:

- City of Rialto – Building Code Enforcement
- Community of Baker
- Lucerne Valley School District

CITY OF RIALTO

Building Code Enforcement

BACKGROUND

A complaint was received by the Grand Jury from the owner of what was described as a custom built single-family house in the City of Rialto. The complainant discovered numerous defects with the completed house, including plumbing and major framing/structural problems. These complaints were reported to the city's building department and city officials without any meaningful action being taken.

The complainant employed experts in the construction field to inspect the home and submit written reports on defects. These reports were reviewed by members of the Grand Jury.

Members of the Grand Jury met with the Senior Planner of the City of Rialto to inquire about the process of constructing a new house within the city. We were furnished copies of a fee schedule and forms required to be filed before a building permit is issued.

An interview was conducted with the Code Enforcement Supervisor of the Building Development Department, City of Rialto, to ascertain how state and local construction code standards for housing are enforced. The interview revealed that an on-site city inspector signs off each phase of construction, from lot grading to exterior/interior finishing as they occur, until the house is completed. Sign off by the inspectors is entered on the back of the building permit posted on each house under construction.

The statements made on the Grand Jury complaint form were confirmed verbally, in an in-person interview with the complainant.

Members of the Grand Jury visited the City of Rialto's Building Department to secure information on complaints about new home construction filed with the city between January 2008 and December 2010. The visit was coordinated through the City Clerk's Office and a Records Coordinator who accompanied the grand jurors during the visit. Rialto's Building Department records are on paper, and filed by street address. Locating a past complaint proved difficult because of the address-key filing system. Current building code complaints are kept separately until investigated and resolved, then put into the large general file.

An additional interview was conducted with the Supervisor of the Code Enforcement Division to gain additional information regarding the practices, policies, and procedures involving residential building construction. This interview was followed in a telephone interview with the Supervisor to clarify further information about personnel in the building department and code enforcement during 2008 and 2009.

The California State Contractor Licensing Board was contacted by phone regarding the number of complaints they had received about specific builders in the City of Rialto between 2008 -2010. The result was a telephonic response indicating that only one complaint had been recorded.

All building projects start with a map required by the California Subdivision Map Act:

- 4 homes or less - a parcel map is required
- 5 homes or more - a tentative tract map is required and must include streets, sidewalks, lighting, sewers and any other improvements required by the city (this map is assigned a number and is good for two years, with extensions available)

The appropriate map is sent to both the planning division and engineering division for review to ensure the plan meets zoning requirements, structural density and the site improvement requirements of the city. After meeting the plan checker's satisfaction, the proposed project is presented to the planning commission, then to city council for

approval. After approval of the plan or tentative track map, it is recorded in the County Map Book.

The builder takes the approved site plans to the city building department, where they are checked for structural soundness, soil compression, electrical, and foundation details prior to a building permit being issued. Inspectors in the city building/planning division visit the construction site and monitor the work periodically. Inspections are required at set stages of construction. Work must stop until the building inspector has signed off that the standard is met per tract phase, i.e. foundation, underground fixtures, etc. Once a builder has completed a house, he files for a Certificate of Occupancy from the building department. The entire tract does not need to be finished at the same time. There is no single document titled "Certificate of Occupancy" utilized, but the final inspection is recorded on the back of the building permit which serves as the same thing.

Building inspectors earn their certification through testing with the International Code Council (ICC). The city claims their responsibility is to ensure that construction was done properly, built to plans and code. The City of Rialto verifies the building is done according to plans. The building department currently employs two inspectors and one supervisor. The engineering department has one engineer and one supervisor. All are required to be state licensed. During the building boom in mid-2000, the city claims they don't know how many inspectors they hired.

During the construction phase, if a structural complaint is received, the builder would be given a correction notice, (two part form.) If after the construction phase, the building Supervisor would check the complaint and issue a correction notice, if appropriate. In either case corrections are required to be completed within a thirty-day time period. The city tracks individual family home construction or modifications through street addresses on a building permit. No procedure is in place to access these records without a tedious hand search by address.

Between January 2008 and December 2010, the building department had no system for the tracking of permitted residential structure construction complaints. If the complaint is received after the house is built, the city claims it is difficult to determine which tradesman was in violation. The actions they could take would depend on the type of violation. When a correction notice is issued it is sent to the appropriate building department for compliance.

During the building boom, the city of Rialto hired contract inspectors and relied on the services of an outside source to verify the contracted inspector's license and certification. In fall of 2009, the Supervisor of the Building Code Enforcement Department retired. At the time of his retirement, there were 300 outstanding building complaints. As of February 2011, half had been resolved.

FINDINGS

1. The City of Rialto follows the State of California Guidelines involved in approving building plans.
2. The City of Rialto has an inadequate record keeping system that requires numerous man-hours to search for new home construction and building complaint information.
3. The process of issuing Correction Notices is not monitored.

RECOMMENDATIONS

- 11-16 Establish a well-defined building inspection process that ensures State Building Codes are being followed. (Finding 1)

- 11-17 Establish a computer based program to track, monitor new home construction and building complaints to replace the current paper-based program. (Findings 1, 3)

- 11-18 Develop a better sign-off process that requires both printed name, signature and license or employee identification number on the building inspection reports. (Finding 2)

Responding Agency	Recommendations	Date Due
Rialto City Manager	11-16 through 11-18	September 30, 2011

THE COMMUNITY OF BAKER

Community Service District

BACKGROUND

The Baker Community Service District consists of a 4.5 square mile area on I-15 about 60 miles northeast of Barstow, California. The district serves about 600 residents; most are employed in this desert community. Baker is known as the “Gateway to Death Valley” along with “The Tallest Thermometer in the World”. The community offers relief to thousands of travelers on their way east or mainly to Las Vegas and serves as a refreshing station for fuel and food. The area is rural desert with mainly mobile style housing and unpaved roads with upgraded facilities for travelers. Eighteen thousand vehicles pass by or through this desert relief station each month.

In March 2011, members of the 2010-2011 Grand Jury attended the publicly scheduled County Service District meeting for Baker. The Grand Jurors also held a “Closed Door” meeting with the district’s General Manager and Secretary after the public meeting. The members had an opportunity to speak at this public meeting and they verbalized the duties of the Grand Jury and how they came to attend their meeting and of our interest in their operations. Each member of the current board expressed their views on the area, intentions, and everyday problems. They expressed a deep concern of the lack of understanding in their plight in Baker’s relationship with the County’s entities, such as Planning, Land Use Services, Building, Transportation and any agency that controls building and roads. Their concerns are focused on the regulatory agencies control of all building and construction in their area, and their applying urban (City) regulations to rural (Desert) communities.

Each member of the board told of incidents when they personally were confronted by a member of the community. Each of the incidents indicated a demanding or unpleasant attitude by county officials, employees, and was given misstated information from the

County. One incident resulted in a cost of over \$50,000.00 of improvements required by the county, only to be told by the county that those improvements were not needed, but others were needed. There were numerous events requiring extensive time consumption or unwarranted expenditures with little economic return for the area. A number of wanted and needed franchises have considered investing in the area only to be frustrated by the county employees and stringent regulations that would make their investment unrecoverable in an appreciable time. The comments from these potential investors indicate they would not invest in a situation that is not properly built or that is economically and aesthetically not fit for the budget and the local ambience for a desert community.

FINDINGS

1. There is a single list of regulations that cover urban and rural areas imposed by county departments.
2. The County was working on a “Customer First” approach in the past with potential customers in all areas of contact with counties residences. A sometimes rude and uncaring attitude by the county employees of regulations are interpreted with great uncertainty.
3. Most of the communication problems are with Land Use Services, Planning, and Local Agency Formation Commission (LAFCO). This is not only a county problem, but the Baker community has not responded to many of the County’s departments that could supply needed information.
4. The Baker Community Service District has implemented its own improvements without County approval, mainly in the road paving area.
5. The opinion shared by the majority of members of the Baker Community Service District Board is that they are happy with the way things are presently.

RECOMMENDATIONS

- 11-19 Implement a two tiered set of regulations for urban and rural areas. For example not imposing curbs and gutters in extreme rural areas that have no sewers, no containment, and water control programs. (Finding 1)

- 11-20 Treat local residents who request services from our County with courtesy and respect to encourage dialogue. (Finding 2)

- 11-21 More “Face to Face” meetings between the First District County Supervisor, staff members, and Special District members. (Finding 3)

- 11-22 Ensure prompt responses to communications. (Findings 2, 3)

- 11-23 The Community of Baker consider forming their own city, when appropriate. (Finding 5)

<u>Responding Agency</u>	<u>Recommendations</u>	<u>Date Due</u>
General Manager, Community of Baker	11-20 through 11-23	September 30, 2011
Board of Supervisors	11-19 through 11-22	August 30, 2011

LUCERNE VALLEY UNIFIED SCHOOL DISTRICT

BACKGROUND

School districts in California are required to interact with and obtain approvals from state agencies, including the Office of Public School Construction (OPSC) in order to obtain funding for new school construction and modernization projects. Under the School Facility Program (SFP), the school district must meet a number of eligibility requirements and also demonstrate an ability to meet a state/local match for grant or cost funding. School districts unable to meet some or all of the local matching funds may apply to the OPSC for financial hardship status. If the OPSC approves the financial hardship status, the districts can receive up to 100% state funding for new school construction or modernization projects. To qualify for financial hardship funding, a school district must demonstrate: (1) it is levying developer fees up to the maximum amount allowed by law; (2) it has made every reasonable effort to raise local revenue to fund the project; and (3) evidence of financial inability to contribute the required local matching fund.

As previously noted, the law requires that school districts seeking financial hardship status must demonstrate that all reasonable efforts have been made to raise local revenue for the SFP match requirement. State Allocation Board (SAB) has adopted regulations that set criteria to determine that this requirement has been met. A regulatory criterion is that current outstanding indebtedness of the school district, at time of the financial hardship request, is at least 60% of the district's total bonding capacity. Outstanding indebtedness includes General Obligation Bonds, Mello-Roos Bonds, School Facility Improvement District Bonds, and Certificate of Participation (COP) that was issued for capital outlay school facility purposes, on which the school district is paying a debt service.

The 2010-2011 Grand Jury received a citizen complaint concerning the issuance of COP in the amount of \$7,500,000 by the local school board. The resident was concerned not only with the amount and use of the COP, but the school board's reasoning behind the issuance of the COP. The complaint documentation provided a statement included in the June 7, 2007 minutes of the Lucerne Valley Unified School District board meeting (See Attachment #1). The stated primary reason for the issuance of the COP was to put the school district in enough debt so that the district could declare a state of "hardship" thus allowing the building of two new schools to be paid for by state funds without local matching funds. This was the beginning of an amassing of borrowed monies in the range of \$9,000,000, which would allow the school district to qualify for financial hardship funding. The borrowed monies were utilized for appropriate projects such as purchasing new school buses, paving school approach roads, installing window shades, and a number of other projects.

The Grand Jury met with elected and nonelected school district officials to discuss the loan, the use of the money, and the projects that were completed. The members received details of the school district's financial condition, level of indebtedness, and were assured that the school district was committed to keeping loan payments current and upholding the terms of the loan. The members reviewed a copy of an external audit from H & H auditing firm which stated that audit findings that the School District has used the loan monies in the manner for which they were borrowed, and payments are current as of March 2011.

The members were informed that the method of going into debt to obtain "hardship" status is not unique to the Lucerne Valley Schools District and that schools districts have tried this process of borrowing heavily to accomplish this status.

FINDINGS

1. The regulatory criterion that current outstanding indebtedness of the school district, at the time of the financial hardship request, is at least 60% of the

district’s total bonding capacity. This is one of many factors used by the OPSC to determine if a school district qualifies for hardship status. The school board decision in 2007 to issue COP created outstanding indebtedness with no guarantees that OPSC would approve the hardship status.

2. The OPSC has not approved the school application for hardship status as of the date of this report.

3. Although the OPSC regulations do not appear to prohibit school districts from the practice of intentionally increasing outstanding indebtedness to qualify for hardship status, the practice appears to run counter to the goal of the SFP to require school districts to raise funds for the local SFP match.

RECOMMENDATION

11-24 Implement policy changes that restrict the creation of outstanding indebtedness for purposes of qualifying for SFP hardship status. (Findings 1, 2, 3)

<u>Responding Agency</u>	<u>Recommendation</u>	<u>Date Due</u>
Lucerne Valley Unified School District Board	11-24	September 30, 2011

Lucerne Valley USD Agenda Online

Meeting: Emergency Meeting of the Board of
Trustees : C. Action Items

1. Approval of Project Finalization/Funding Plan - The Board of Trustees is requested to approve the district borrowing up to 10 million dollars to fund a variety of projects. (V)

June 07, 2007

Motion Made By : Julia Bell.
Motion Seconded By : Jean Morgan.

Requested Action

The Board of Trustees is requested to approve the district borrowing up to 10 million dollars to fund a variety of projects.

Rationale

This emergency Board meeting is needed to finalize plans for several projects along with a funding strategy to pay for them. The projects include but are not limited to the following: Early Childhood Learning Center, relocating our Pupil Services Division to a new site that will include two new modulars, a new District Office, 8 new air conditioned buses, two new maintenance buildings, improvements to our FFA program, 3 new modulars for the high school, middle/high school landscaping, computers, and a new transportation building on a new site.

The debt that the district will incur will put the district into "State Hardship" status, which means 100% funding from the state, allowing us to have a new elementary and middle school at no cost to the community. The percentage of debt that it takes to reach such status is based on the community's assessed valuation. Many local citizens feel that Lucerne Valley's assessed valuation could rise drastically in the next few years requiring more debt to reach "Hardship Status". The current amount of debt to attain "Hardship Status" is approximately 8.5 to 9.0 million dollars.

The loan the Board is finalizing at its June 20th meeting is called a Certificate of Participation, which is a low interest loan that is available only to public entities. The loan payment schedule will be deferred for three years with the first payment due at the end of year four. The district's plan is to have the annual revenue from the two recently approved charter schools pay back the loan. A worst case scenario would be that the district would have to go to the community for a general obligation bond in three years to repay the 9 million dollar debt if the revenue from both charters is less than anticipated.

The most exciting part for Lucerne Valley is the community will be getting two new schools without raising taxes.

Minutes

The Board of Trustees approved the district borrowing up to 10 million dollars to fund a variety of projects.

Votes

Motion Made By : Julia Bell.
Motion Seconded By : Jean Morgan.
Teresa Reyes - Yes
Jean Morgan - Yes
Tom Courtney - Yes
Bryn Risler - Yes
Julia Bell - Yes