

2005-2006 GRAND JURY REPORT

City Council of Desert Hot Springs

Background

The City of Desert Hot Springs is located east of the City of Riverside. According to the California Department of Finance, the City's population in 2005 was 22,100.

The City is a Charter Municipal Government incorporated on September 24, 1963. The City is governed by an elected mayor who is a fifth voting member of the elected City Council. The City operates within the framework as set forth by California law. This allows the City Council to establish policies, adopt city ordinances, and perform other legislative matters.

City of Desert Hot Springs' budget is \$39,314,879 for fiscal year 2005-2006. The City contracts with a City manager to oversee staff and City business, and with a City attorney to advise the City Council on legal matters. The City of Desert Hot Springs has its own police department and contracts with the Riverside County Fire Department/California Department of Forestry (CDF) for fire protection.

City of Desert Hot Springs General Plan Vision Statement

"The City of Desert Hot Springs is committed to becoming a world-class health and wellness destination based on its famous miracle waters, unique desert ecosystem, spectacular mountain view and natural environment. The City is dedicated to improving the quality of life and economic opportunities for its residents, while preserving community and family values, encouraging social and cultural diversity and increasing recreational opportunities."

Findings

1. The City adopted a Code of Ethics (Municipal Code Section 31.45 thru 31.58), which states the following:

"...there is hereby established a code of ethics for all officials and employees, whether elected or appointed paid or unpaid. The purpose of this code of ethics is to establish ethical standards of conduct for all such officials and employees..." (Ord. 91.3 adopted February 19, 1991).

Information obtained by the Grand Jury indicated violations of the City Code of Ethics as illustrated below:

- a. A City Council subcommittee on ethics, in a statement dated August 5, 2003, reported ethics violations by certain City officials.
- b. A former City official recommended that a security contract be approved and later asked for, and was granted, a contract increase from \$8,000 to \$10,000. It was discovered that this same City official's relative's name had been removed from the letterhead before presenting the contract to the Council for action.
- c. A former City official renegotiated a developer's contract so that street improvements would extend past this official's property. This official then recommended that the Council approve the contract without disclosing his/her interest.
- d. A former City official, whose company performed work within the City, neglected to report that income on his/her Statement of Economic Interest-Form 700.
- e. Information was reported on the Statements of Economic Interest-Form 700 by certain City officials who did not recuse themselves from apparent conflicts of interest.

The Political Reform Act (Government Code Sections 81000-91015) requires state and local government officials and employees to disclose publicly personal assets and income in their Statements of Economic Interest-Form 700.

2. It was discovered during an independent financial audit that Administrative Services did not follow proper accounting procedures. Internal control of accounts receivable during fiscal years 2003-2004 and 2004-2005 resulted in special permit funds being commingled with the general fund.
3. A former City official held five positions (city manager, executive director of development agency, city engineer, building official, and development director), simultaneously within the City administration. This may have been in conflict with the Common-Law Doctrine of Incompatible Public Offices for a Charter City. On September 30, 1998, the Attorney General of the State of California, in his opinion and analysis, summed up the Common-Law Doctrine as follow:

“Offices are incompatible, in the absence of statute suggesting a contrary results, if there is any significant clash of duties or loyalties between the offices, if the dual office holding would be improper for reasons of public policy, or if either officer exercises a supervisory, auditory, or removal power on the other.”
4. As of 2005, City employees had not received a handbook outlining their employment rights (Skelly rights), nor were employees designated as “At-Will,” aware of their status.
5. Hiring procedures were often ignored by the Human Resources Department. Some employees were hired for certain positions within the City without the required educational degrees and/or criminal background checks.

Recommendations

City Council of Desert Hot Springs

1. All City employees adhere to the City Code of Ethics. City Council members and City employees who are required to complete a Statement of Economic Interest-Form 700 attend a workshop outlining instructions on completing this form, and also attend ethics training as required by AB 1234.
2. Specialized permit funds should have detailed accounting records, including allocation and disbursement of funds. The City adhere to the recommendations by the independent auditors that the permit funds be segregated from the general fund, and that an annual audit of specialized funds be conducted.
3. City officials should not hold two or more positions simultaneously in City government if a conflict of interest arises.
4. All employees be provided a handbook of their employment rights. This handbook should include specifics on the Skelly rights for government employees. Those employees designated as "At-Will" should be required to sign a statement similar to what Riverside County requires for its "At-Will" employees (See Attachment A, Memorandum of Understanding). Riverside County Resolution No. 2005-475 Section 601-E details what "At-Will" means and how it affects employment and termination.
5. Preemployment verification should include educational degrees, position requirements, and criminal background checks.

Report Issued: 06/26/06
Report Public: 06/29/06
Response Due: 09/25/06

MEMORANDUM OF UNDERSTANDING

This memorandum is an employment understanding between the County of Riverside and:

Name: _____

Appointed Position: _____

Salary: _____

Date of Appointment: _____

Employment Conditions:

The incumbent is appointed by the Board of Supervisors and serves at the pleasure of the individual Supervisor (i.e. At-Will) as provided under Article 6, Section E (3) of the Management Resolution No. 2005-475.

Employee Signature

Date

Department Head/Agency Head Signature

Date