

# **NIGHTMARE IN LINDSAY**

## **BACKGROUND:**

The City of Lindsay is located southeast of Visalia and north of Porterville within Tulare County and is considered part of both the Visalia-Porterville Metropolitan Area and the Porterville Urban Area by the United States Census Bureau. The population was reported at 11,768 in the 2010 census and was estimated in 2014 to be 13,192. Lindsay is a charter city with a council-manager form of government.

Before establishment of the community, the Yandanche tribe of Native Americans came to hunt and fish at the site for centuries. John C. Fremont, an American military officer, explorer, and politician, passed through the area on four of his exploration trips. Fremont would later become the Military Governor of California (1846).

Captain Arthur Hutchinson moved to California for health reasons in 1889 and purchased 2,000 acres of land in what would later be the Lindsay area. Shortly thereafter, the Southern Pacific Railroad established a route through the area. This spurred Hutchinson to lay out and develop the Lindsay townsite, named after his wife, Sadie Lindsay Patton Hutchinson. The community grew and was incorporated as a city on February 28, 1910.

## **REASON FOR INVESTIGATION:**

The 2015-2016 Tulare County Grand Jury received complaints alleging Open Meeting (Brown Act) violations and criminal wrongdoing involving quid-pro-quo dealings by the City of Lindsay. The Grand Jury found the Brown Act violations were difficult to substantiate. The Grand Jury was concerned, however, with the appearance of civil impropriety occurring within the Lindsay city government as these complaints were investigated. The Grand Jury elected to inquire further into the public affairs of the City.

## **METHOD OF INVESTIGATION:**

The Tulare County Grand Jury initially started the investigation by interviewing the complainants. Afterward, other witnesses familiar with different aspects of the issues were interviewed.

The Grand Jury obtained and reviewed written information from various sources, including but not limited to public media and applicable official city documents. Sworn statements and transcripts were also examined.

## **FACTS:**

1. After the resignation of Lindsay's city manager in November of 2010, the then current Police Chief was appointed as the city manager, thus combining the two positions.
2. The District Attorney conducted an investigation of Open Meeting (Brown Act) violations by the Lindsay City Council.
3. On at least two (2) occasions, no more than two (2) council members met in unofficial meetings at private residences to discuss employee union matters. In no known cases, however, was a quorum present.
4. A court document and witness statements alleged there was a flagrant misallocation by a city official of directing their employees to perform personal services outside the city's jurisdiction on city time.
5. In the complaints, there were allegations of misconduct (e.g., collusion, cronyism, nepotism, harassment, etc.) by various city officials.
6. The city reached high-cost employment severance settlements (in excess of \$400,000) with a number of employees over the issue of termination.
7. The city council imposed employee furloughs, claiming financial constraints.

## **FINDINGS:**

- F1. The Grand Jury determined the combining of the office of city manager and police chief positions critically weakened the checks-and-balances with regards to personnel issues. This eliminated the division of authority to more than one person and position.
- F2. A number of costly employee settlements resulted from the aforementioned combination of these two positions.
- F3. The Grand Jury determined that the lack of meaningful evidence made allegations of Brown Act violations difficult to substantiate.
- F4. Some City council members were involved in discussions over union issues at private residences and outside the parameters of established procedures.
- F5. The cost of the employee settlements contributed to the city's poor financial condition and the necessity to impose employee furloughs.

## **RECOMMENDATIONS:**

- R1 Lindsay City Council members should thoroughly familiarize themselves with open meeting laws (Brown Act) and generally acceptable procedures for conducting municipal business.
- R2 The Lindsay City Council should be more deliberative when considering the combining of key managerial positions.

## **REQUIRED RESPONSES:**

Lindsay City Council ✓



# City of Lindsay



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May 10, 2016

The Honorable Judge Bret Hillman  
County Civic Center, Room 303  
221 S. Mooney Blvd.  
Visalia, CA 93291

*Tulare County Grand Jury  
5963 So. Mooney Blvd  
Visalia, Ca 93277*

SUBJECT: Grand Jury Report, RE: Nightmare in Lindsay

Honorable Judge Hillman,

The City of Lindsay is in receipt of a portion of the Tulare County Grand Jury Final Report regarding the City of Lindsay, released on March 28, 2016 entitled, Nightmare in Lindsay. The Grand Jury report directs the City Council to respond within ninety days to each of its five findings and two recommendations regarding the City, as required by California Penal Code §933 and outlined in the report. In response to the findings and recommendations the following is provided:

## Findings:

**F1.** The combining of the office of city manager and police chief positions critically weakened the checks-and-balances with regards to personnel issues. This eliminated the division of authority to more than one person and position.

Response: The majority of Council agrees with Finding 1; that the combining of the office of city manager and police chief positions critically weakened the checks-and-balances with regards to personnel issues.

A minority of the Council disagrees wholly with Finding 1 for the following reasons:

- Evidence is lacking to support this finding. The combining of these specific positions is commonly done and has occurred recently within other nearby municipalities, including the Cities of Farmersville, Exeter and Lemoore without negative impact. The City of Lindsay has also done this in the distant past without negative impact; therefore, the City Council had no empirical evidence to indicate that combining these two positions should weaken the checks-and-balances relating to personnel issues. Further, combining these two high-salaried positions was done to lessen the financial impact on the City while preserving necessary leadership during a period of financial hardship. The combining of these two positions was not a decision made lightly.

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F2. A number of costly employee settlements resulted from the aforementioned combination of these two positions.

Response: The majority of Council disagrees wholly with Finding 2 for the following reasons:

- Evidence is lacking to support this finding. Only two people are known to have left the City unexpectedly during this period. The total cost of employee settlements was \$276,449 (rounded to the nearest dollar) and not "in excess of \$400,000" as indicated in Grand Jury Final Report, FACTS: #6.
- The former city manager received severance pay of \$151,326 plus \$35,123 in unpaid vacation, wages, FICA/Medicare and ten months' medical, per his separation agreement. This type of arrangement is not unusual when a city manager is asked to leave or is terminated without proof of wrongdoing. Lindsay Municipal Code, Section 02.08.260 allows for this process. The combining of the aforementioned positions had no bearing on whether or not severance pay would have been provided to the former city manager upon his departure.
- An at-will police lieutenant was terminated and filed a wrongful termination lawsuit. A financial settlement of \$90,000 was reached with the lieutenant to limit the fiscal impact on the City. A department head may terminate an at-will employee at his/her discretion, therefore, the decision to terminate and the resulting lawsuit would likely not have been impacted by the separation of these positions.

A minority of the Council agrees with Finding 2, that a number of costly employee settlements resulted from the aforementioned combination of these two positions.

F3. The lack of meaningful evidence made allegations of Brown Act violations difficult to substantiate.

Response: The City Council unanimously feels that evidence is lacking to either support or refute this finding.

F4. Some City Council members were involved in discussions over union issues at private residences and outside the parameters of established procedures.

Response: The majority of Council disagrees wholly with Finding 4 for the following reasons:

- Mayor Padilla indicated that she was not involved with discussions related to union issues and knows of no evidence to support finding 4.
- Mayor Pro-tem Sanchez indicated that she was not involved in discussions related to union issues and supports the Council majority in wholly disagreeing with the finding.
- Councilmember Mecum indicated that he only listened to a complaint and did not consider his actions to be outside established City Charter procedures.

A minority of the Council agrees with Finding 4, that some City Council members were involved in discussions over union issues at private residences and outside the parameters of established procedures.

F5. The cost of the employee settlements contributed to the City's poor financial condition and the necessity to impose employee furloughs.

Response:

The City Council unanimously agrees with Finding 5, that the cost of the employee settlements contributed to the City's poor financial condition and the necessity to impose employee furloughs.

**Recommendations:**

R1. Lindsay City Council members should thoroughly familiarize themselves with open meeting laws (Brown Act) and generally acceptable procedures for conducting municipal business.

Response:

Although the Grand Jury stated in Finding #3 that they had insufficient evidence to support a Brown Act violation, the recommendation will be implemented with refresher training to be conducted in the future. Training on Brown Act law and generally acceptable procedures for conducting municipal business has been conducted with refreshers planned during public forums to benefit both the Council and the public. These refreshers will occur quarterly, over the course of a year during a designated portion of upcoming Council meetings. The tentative schedule for these refreshers is as follows:

- Date: August 9, 2016
- Date: November 8, 2016
- Date: February 28, 2017
- Date: May 9, 2017

R2. The Lindsay City Council should be more deliberative when considering the combining of key managerial positions.

Response: The recommendation has been implemented and will continue to be implemented. The City Council considers its process in combining key managerial positions to have been appropriately deliberative and will ensure it continues to be deliberative whenever a scenario arises in which the City Council is in the position of combining key administrative positions.

We trust the information provided herein will adequately address the findings and recommendations provided in the Grand Jury report. Please address any further questions or information to Carmela Wilson, Lindsay City Clerk at 559-562-7102 Ext 8031 or to the City of Lindsay, P.O. Box 369, Lindsay CA 93247, Attn. City Clerk.


Respectfully submitted,

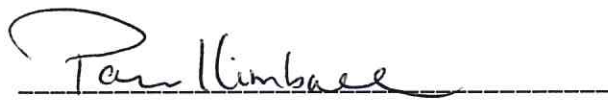
City of Lindsay City Council

  
Mayor Ramona Villarreal-Padilla

  
Mayor Pro Tem Rosaena Sanchez

  
Councilmember Steven Mecum

  
Councilmember Danny Salinas

  
Councilmember Pamela Kimball

CC: Tulare County Grand Jury 5963 So. Mooney Blvd., Uxale Ca 93277