

WILD WINGS COUNTY SERVICE AREA: MANAGEMENT AND SERVICE CONCERNS

SUMMARY

The 2015-2016 Yolo County Grand Jury (YCGJ), in response to citizens' complaints, completed an investigation of the Wild Wings County Service Area (CSA). The complaints included allegations of financial mismanagement, lack of transparency with regard to public documents, lack of responsiveness on the part of Wild Wings CSA management, Wild Wings Golf Course operations, and water quality.

The Grand Jury identified policies and procedures that should be improved to provide greater transparency, increased access to public documents, improved communication, increased financial oversight and development and funding of a long-term capital improvement plan.

GLOSSARY

County Service Area (CSA) – Residents or county supervisors can initiate the formation of a CSA. A CSA is authorized to provide a wide variety of services, including extended police protection, fire protection, park and recreation facilities, libraries, low power television and translation facilities and services. CSAs also may provide other basic services such as water and garbage collection if they are not already performed on a countywide basis.

Special District – The California Special District Association describes special districts as follows: “Special districts are a form of local government created by a local community to meet a specific need. Inadequate tax bases and competing demands for existing taxes make it hard for cities and counties to provide all the services their citizens desire. When residents or landowners want new services or higher levels of existing services, they can form a district to pay for and administer them. Nearly 85% of California’s special districts perform a single function such as sewage, water, fire protection, pest abatement, or cemetery management. Multi-function districts, like community services districts, provide two or more services.”

Restricted Funds – A reserve of money that can be spent only for the specific purposes stipulated by constitution, external resource providers, or through enabling legislation.

Ralph M. Brown Act (Government Code §§54950-54963) hereinafter “The Brown Act,” states, “In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people’s business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly. The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.”

BACKGROUND

The Grand Jury investigated multiple citizen complaints which alleged:

- Odor and arsenic levels affecting drinking water have not been properly addressed.

- On May 21, 2013, Yolo County Planning and Public Works presented a Proposition 218 Water and Sewer rate increase to the Board of Supervisors without performing a rate study by a registered professional engineer certified by the State of California as required by Article XIII, D, Section 4b of the California Constitution.
- Wild Wings CSA has failed to fund reserves for water and sewer.
- Obtaining public documents from Wild Wings CSA is difficult and in some cases impossible.
- The Wild Wings CSA has neither sought nor acted on any alternative solution that would be less costly for residents who continue to fund a golf course that has not been profitable.
- Wild Wings CSA failed to seek competitive bids before extending the KemperSports contract to maintain and operate the Wild Wings Golf Course.

California Penal Code Section 925 authorizes the grand jury to investigate and report on the operations, accounts, and departments of Yolo County. Pursuant to that statute, the YCGJ investigated Wild Wings CSA.

METHODOLOGY

The Grand Jury followed four primary methods for this investigation: review of complaints, background research, interviews, and fact-finding research. The YCGJ investigation included interviews of county staff, elected officials, and residents of Wild Wings residential development.

The Grand Jury also reviewed the *2013-2014 Yolo County Grand Jury Final Report, Proposition 218 Protest Election Process: "The Yolo Way"* and the *2012-2013 Yolo County Grand Jury Final Report, Yolo County Finance: Tracking Changes*.

The Grand Jury utilized the websites of the following agencies:

- The County of Yolo (<http://www.yolocounty.org/>)
- Wild Wings (<http://www.yolocounty.org/community-services/planning-public-works/county-service-areas/wild-wings>)
- Wild Wings Golf Club (<http://www.wildwingsgolf.com/>)
- KemperSports (<http://www.kempersports.com/>)
- California Special Districts Association (<http://www.csda.net/special-districts/>)

In addition, the Grand Jury reviewed:

- Yolo County Wild Wings CSA financial documents
- Yolo Local Agency Formation Commission (LAFCO) *Municipal Service Review and Sphere of Influence Study for the Wild Wings County Service Area (CSA)* dated June 26, 2014
- *Open & Public IV: A Guide to the Ralph M. Brown Act, 2nd Edition*, Revised July 2010
- Ralph M. Brown Act Government Code §§54950-54963
- Wild Wings CSA meeting minutes

- Wild Wings HOA meeting minutes

DISCUSSION

The Wild Wings County Service Area (CSA) was established in November of 2004 to provide water and sewer services to a planned subdivision extending along Highway 16 to the west of Woodland. The Wild Wings CSA is governed directly by the Yolo County Board of Supervisors and controlled by the Department of Public Works. The CSA is operated by an appointed advisory group (composed of Wild Wings residents) which works with the CSA Board of Directors through a representative assigned by the board to oversee the procurement and delivery services of water, sewer, and capital improvements. The advisory group provides recommendations. The assigned representative reviews recommendations and determines whether or not to advance those recommendations to the Board of Directors who ultimately authorize whether to move forward or not. Members of the Yolo County Board of Supervisors serve as the CSA Board of Directors.

Wild Wings CSA currently provides water and sewer services to a 327 home subdivision and a nine-hole golf course which runs through the subdivision. The Wild Wings CSA operates the only county-run wastewater treatment plant which is fully self-sustained and complies with mandatory state regulations. In addition, the CSA operates the corresponding water supply system.

In March 2009, the Wild Wings CSA acquired the Wild Wings Golf Course. KemperSports continues as the manager of the golf course.

The Grand Jury began its investigation by determining the validity of the allegations made in the complaints.

Water Treatment Facility Odor

Odor issues emanating from the water treatment facility have plagued some Wild Wings residents since early 2011. These issues were initially addressed, to the extent possible, prior to having a mitigation plan in place. On June 30, 2011, the issues were publically acknowledged by the CSA. The Yolo-Solano Air Quality Management District issued a formal notice of violation for the treatment facility in 2012 and recommended that additional funds be set aside to cover the cost of possible ongoing treatment. A formal mitigation plan to address the odor issues was presented to the public on August 24, 2012. The initial odor issue has been mitigated; however, a few residents continue to experience occasional slight odor problems.

Arsenic Levels

A 2002 engineering report showed arsenic levels to be within the acceptable range prior to drilling the wells. However, in 2009, the California Department of Public Health issued a compliance order to Wild Wings CSA regarding high arsenic levels in one of the wells in the community water system. County officials stated that the well in question was on standby, was not a primary water source, and recommended that funds be put aside to drill a new well in the event it becomes necessary. The funding for this capital improvement has not been adequately addressed. Lack of appropriate funds for capital improvements remains a primary barrier to resolving this matter.

Engineer's Report

A citizen complaint raised the issue of whether an engineering report was used to calculate new water rates proposed as part of the 2013 Proposition 218 proceeding. The YCGJ obtained a copy of the 2002 Wild Wings Development Water Supply Study – Wells Engineer's Report completed when the County Service Area was created for Wild Wings as well as the 2004 Water and Waste Water Engineer's Tax Report. The YCGJ was unable to confirm if an engineer's report was required to justify higher rates. A representative for the CSA stated that a new Engineer's Report is scheduled for 2016.

Water and Sewage Capital Improvement Accounts not fully funded

The YCGJ investigated the Wild Wings CSA spending and borrowing practices and the lack of available information regarding financial transactions. In 2009 the Wild Wings Community voted to purchase the community golf course. Two special measures were approved by the community members to pay for this additional debt and rising water service fees. Over a period of several years, the CSA operated at a deficit, mainly due to the failing economy and increased service expenses. Expenses far exceeded income. Rather than increase service fees yet again, and in order to maintain basic services, money was borrowed between funds, including so called 'set aside' or 'reserved' funds, to cover debt repayment. There are questions as to the recommended amounts of reserve funds and why they have not been set aside.

The Grand Jury found that the reserve amounts were not set aside for the years 2011, 2013, and 2014 as these amounts were diverted to alleviate a shortfall in the projected revenues of the golf course and general budget items.

County officials reported that there is an undetermined deficit in reserves, as evidenced by the need to borrow funds to cover repair expenditures in 2011-12 (Board Resolution 11-79.30, Minute Order 12-77, Item 35.) In fiscal year 2011-2012, \$270,000 was borrowed from restricted funds to cover shortages in other funds for eligible repair expenditures. Planning and Public Works staff have not assessed the extent of this deficit, but suggested that a possible reason is unfunded depreciation.

County staff estimated current year end shortages of \$208,000 for the sewer infrastructure replacement fund and \$464,000 for the water infrastructure replacement fund.

The YCGJ is concerned that there may be a need for additional assessments to cover the deficits within these "restricted funds."

Restricted Funds

Some complaints questioned the practice of borrowing from funds labeled restricted.

Prior to 2009, the golf course, which had been owned and managed by the original developer, was put up for sale. The community voted to assume ownership of the golf course in 2009 by means of Measure "O" which, in part, levied additional yearly assessments to cover anticipated revenue shortfalls and maintenance expenses. Unfortunately, coinciding with this acquisition, the economy took a dramatic downturn and projected revenues fell short of actual expenses. This led the Board of Supervisors to approve the borrowing from "restricted" fund accounts to cover expenses incurred as a result of the golf course purchase and ongoing maintenance. It has since been determined that these funds were borrowed from funds designated to maintain water, sewer, and capital improvements. While borrowing these funds avoided penalties and interest

charges, the community reserves were quickly depleted (see Yolo County Board of Supervisors Resolution dated 4/21/2009). Additionally, funds collected from the residents for these “restricted” accounts were diverted while no deposits were made for several years. Subsequently, by 2012, the borrowed funds were repaid to these accounts and regular deposits are now being made; however, the funds are not at the level they should be had the borrowing and diversion of funds not occurred. Wild Wings is in need of major capital improvements to the water systems over the next few years, and it is questionable if the funding required will be available.

County employees and public officials were questioned about the practice of borrowing between funds to cover general fund expenses. The typical response was that borrowing between funds is not uncommon as long as a repayment plan is in place. The Grand Jury is concerned about the propriety of borrowing from the water and sewage restricted funds given possible future shortfalls.

Lack of Transparency

There has been a notable lack of transparency regarding the borrowing of funds. Information posted on the Yolo County Wild Wings CSA website is not updated in a timely manner. Posted reports are incomplete and posting times are excessive. Requests for information were not readily forthcoming.

Transparency refers to the ability to easily view and access information of public concern and interest. The financial accounting practices of government entities are of particular interest, because governmental budgets designate the use of taxpayer monies.

The need for, and expectation of, transparency extends to include the budgeting practices of homeowner’s associations and special districts. The purpose of transparency within government entities is to assure the stakeholders that their interests are being protected and managed effectively and to maintain a clear and concise record of spending and accountability.

During the course of this investigation it was difficult and, in some cases, impossible to obtain information covered by the Brown Act, such as meeting agendas and minutes, that is required to be available to any member of the general public. Furthermore, during interviews with County officials, the Grand Jury was often told that information subject to the jury’s inquiry could be found online at the County’s website. However, in many instances that was not the case. For example, as of January 2016, KemperSports’ monthly updates were only posted through July 2015. As of February 2016, all of the monthly updates for 2015 were posted.

It is worth noting that the 2013-2014 Yolo County Grand Jury Report, *Proposition 218 Protest Election Process: “The Yolo Way,”* included recommendations to improve access to public information including identifying the department responsible for providing information regarding Proposition 218 specifically. While this information is required to be public, the 2013-2014 Yolo County Grand Jury Report found it necessary to take further steps to ensure the public was able to obtain documentation related to Proposition 218.

Lack of responsiveness on the part of the Wild Wings CSA management and staff hinders open communications. Citizen complaints identified numerous times when requests for information and documents went unanswered. The Grand Jury also found it difficult to get timely and complete responses for requests for documentation. In a July 3, 2014 article, the Woodland *Daily Democrat* reported a statement by a Yolo County Administrator, noting some problems

with customer service responsiveness. This Administrator suggested the commission consider putting additional resources toward Wild Wings staff “in order to ensure that people get responses in a timely manner.”

LAFCO’s “Municipal Service Review and Sphere of Influence Study for the Wild Wings County Service Area,” dated June 26, 2014, also reported delays up to several months in response to requests for information.

Management of Golf Course

The complaints raised concerns that the golf course management contract was not put out for a competitive bid. KemperSports entered into a contract with the Wild Wings CSA to manage the golf course subsequent to the acquisition of the golf course in 2009. This contract offered both the CSA and KemperSports an option to extend the contract pursuant to the original terms without requiring competitive bids. KemperSports and the CSA exercised this option and extended the contract an additional five years through March 19, 2019. Information from LAFCO, dated June 26, 2014, and Yolo County Budget officials shows the golf course operating at the breakeven point as of 2011 due to residents’ assessment fees as well as cost cutting measures and increased operating income.

Meeting Times

The CSA meetings are held at a time when many residents are unable to attend. Meeting documentation received upon request supported allegations that meeting dates are haphazard and generally held prior to the end of the workday or during commute time for most residents.

Wild Wings CSA meetings are scheduled every two months. Looking at the Yolo County website, it appears meetings were held on January 13, 2015, at 6:00 p.m.; on September 2, 2015 (subcommittee meeting) at 5:00 p.m.; and on November 4, 2015, (subcommittee meeting) at 6:00 p.m., the remainder of the scheduled meetings were cancelled in 2015.

FINDINGS

- F1. There is a lack of transparency and accessibility of information regarding the operations of the Wild Wings CSA.
- F2. The Wild Wings CSA meeting times are inconvenient for working families. Meeting dates are not always consistent.
- F3. Wild Wings CSA meeting agendas and minutes are not posted online in a timely manner.
- F4. KemperSports’ monthly updates are not regularly posted to the Yolo County Wild Wings Golf Club web page.
- F5. The Yolo County website is not user-friendly and is difficult to navigate. Information is not updated on a regular basis.
- F6. The Wild Wings CSA failed to fully fund reserve accounts (capital improvement, sewer, and water) during the years 2011, 2013, and 2014.
- F7. The Wild Wings CSA borrowed from restricted funds to cover general expenses.
- F8. Wild Wings CSA management is frequently unresponsive or gives incomplete responses to requests for information.

RECOMMENDATIONS

- R1. Beginning with the next meeting following the publication of this report and for all ensuing meetings, the draft minutes from Wild Wings CSA meetings should be posted online within 10 working days of the meeting date.
- R2. By September 1, 2016, Wild Wings CSA public meeting dates should be scheduled and held on a consistent basis, for example, the second Tuesday of every other month.
- R3. By September 1, 2016, Wild Wings CSA meeting start time should be no earlier than 7:00 p.m. to allow for greater resident participation.
- R4. By September 1, 2016, KemperSports' monthly updates should be posted by CSA management or staff within 30 days of the end of the month to the Yolo County Wild Wings Golf Club web page.
- R5. By January 2, 2017, Yolo County will maintain a regularly updated and easy-to-navigate website related to the Wild Wings CSA.
- R6. Water and sewer rates should be adjusted on a yearly basis to fund reserve accounts (capital improvement, sewer, and water) as recommended by the most current Engineer's Report.
- R7. By September 1, 2016, Wild Wings CSA staff should acknowledge complaints and concerns in writing within ten calendar days of receipt and then issue a response within 30 calendar days.

REQUIRED RESPONSES

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

From the following governing bodies:

- Wild Wings County Service Area Board of Directors – F1 through F8; R1 through R7

INVITED RESPONSES

- Director, Department of Planning, Public Works, and Emergency Services and Wild Wings County Service Area Manager – F1 through F8; R1 through R4, R6, and R7
- Yolo County Auditor Controller/Treasurer/Tax Collector – F6 and F7; R6

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

BIBLIOGRAPHY

- Municipal Service Review and Sphere of Influence Study for the Wild Wings County Service Area (CSA), Yolo Local Agency Formation Commission June 26, 2014
- 2013-2014 Grand Jury Final Report, specifically Proposition 218 Protest Election Process: “The Yolo Way”
- 2012-2013 Yolo County Grand Jury Final Report, specifically Yolo County Finance: Tracking Changes
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