SUPERIOR COURT OF CALIFORNIA

COUNTY OF SACRAMENTO
Grand Jury

June 27, 2011

Honorable Raymond M. Cadei
Sacramento Superior Court
720 Ninth Street
Sacramento CA 95814

Dear Judge Cadei and Citizens of Sacramento County:

In March 2011 the Sacramento County District Attorney requested that the sitting Sacramento County Grand Jury assist the office in its inquiry about a proposed marijuana growing operation in Isleton, the county's smallest and most remote incorporated city. The District Attorney subpoenaed 20 witnesses to appear at a hearing before the grand jury. The grand jury listened to 7 days of testimony in late April and early May 2011.

The DA's office has yet to issue any statements on the inquiry. While it is highly unusual for the grand jury to issue a report of a joint effort before the DA does so, the sitting grand jury will be dissolved on June 30, thus necessitating the release of this report at this time.

In the early months of 2010, the city of Isleton received several proposals from groups seeking to set up marijuana dispensaries in the city. Many Isleton citizens were concerned with having retail operations of this kind within their midst. But many others were intrigued with the potential revenue that could help this financially strapped municipality. When the Delta Allied Growers (DAG) operation came to town with its proposal to grow medical marijuana but not sell it within the area, the city acted quickly to capitalize on the opportunity DAG presented. The proposed growing operation was to be on a large scale, at first occupying a space the size of a football field and later almost doubling in size.

(Mailing Address) 720 Ninth Street • Room 611 • Sacramento, CA 95814
(916) 874-7559 • FAX (916) 874-8025 • www.sacgrandjury.org

Witnesses testified about the elusive DAG business enterprise, promises of new wealth and increased security for the city, hasty actions by the City Manager and City Attorney, a city council not receiving complete information about the project they were asked to approve, potential conflict of interest arising by the attorney who worked for both the city and the developer, marijuana plants that arrived and disappeared surreptitiously, and many other concerns. The jury learned about state and federal laws prohibiting marijuana cultivation that were confused by recent propositions and laws seeking to develop a medical necessity exception to this prohibition. This confounding situation allowed the operation to get off the ground.

After the U.S. Attorney sent DAG's owner a letter warning that the plan violated federal law, the growing operation was quickly abandoned and DAG has disappeared. The city allowed the community to be pushed into a project that is perched on the blurry edge of marijuana law without properly questioning the situation. It did so, not because of any desire to test the limits of the law, but because of the promise of money and jobs. They forgot the old saying, "If it sounds too good to be true, it probably is."

Sincerely,

DONALD PRANGE SR., Foreperson
2010-2011 Sacramento County Grand Jury
DP/bc

(Mailing Address) 720 Ninth Street • Room 611 • Sacramento, CA 95814
(916) 874-7559 • FAX (916) 874-8025 • www.sacgrandjury.org

City of Isleton and Delta Allied Growers:

Trouble in River City

Introduction

In July 2010 an entity called Delta Allied Growers (DAG) proposed to the City of Isleton to develop a facility to cultivate marijuana for sale and distribution to medical marijuana dispensaries in Southern California. The approval of proposal was expedited through the City of Isleton Planning Commission and City Council, with final approval coming in November 2010. The cultivation, possession and sale of marijuana are prohibited under federal law. California law also prohibits the cultivation, possession, sale and distribution of marijuana, but provides an exception for personal use and cultivation for medicinal purposes.

Issues

Did the City of Isleton diligently evaluate the DAG proposal to create a commercial marijuana cultivation farm? Did city staff adequately investigate DAG's corporate status, operations, security, or lawfulness of the proposed project? Did the city staff adequately disclose what little information it had to the city council? Did the City Attorney adequately disclose any potential conflict of interest or financial interest regarding his involvement with the project? Was waiver of a conflict of interest adequate? Was the city council properly informed by city staff of the investigation by the District Attorney and grand jury?

Reason for Investigation

In order to evaluate whether the proposal conformed to state law, the Sacramento County Grand Jury joined with the Sacramento District Attorney to request information and to elicit testimony on the proposal.

Method of Investigation

Members of the Grand Jury utilized sworn testimony from:

- Current and/or former members of the Isleton City Council
- Current and former members of the Isleton Planning Commission
- The Isleton Police Chief
- The Isleton City Manager
- The Isleton City Attorney
- An officer of the Sacramento County Assessor's Office
- An expert on the California Environmental Quality Act (CEQA)

- An Investigator from the District Attorney's Office
- The owner and three employees of Delta Allied Growers.

The Grand Jury reviewed and utilized the following materials in preparing this report:

- Maps of the City of Isleton and the proposed development site
- Architectural rendering of the proposed development and site
- Development Agreement of Delta Allied Growers and Central Valley Caregivers with the City of Isleton
- Commercial lease agreement
- Records of phone messages, letters, emails, and correspondence among city staff and DAG officials
- The California Attorney General Guidelines for the Security and Non–Diversion of Marijuana Grown for Medical Use
- Delta Allied Growers Certificate of Status from the California Secretary of State
- A variety of federal and state statues and opinions related thereto.

The Grand Jury also received legal advice and analysis from the Sacramento County District Attorney's Office.

Summary

The City of Isleton is a small community on the Sacramento River about 25 miles south of the City of Sacramento in the Delta. Its 840 residents live on 0.40 square miles of land which is 5 feet above sea level and in the 100 year flood plain. The median age of its residents is 5 years more than the state median and the median household income is $5,000 less than the state median. City administration consists of a City Manager, a police chief, a part-time City Attorney and a few others. The police force is composed of the chief, one paid officer and several volunteers with law enforcement training. In the past Isleton has sometimes been referred to as "the little Paris of the Delta." More recently, an editorial in the Sacramento Bee newspaper referred to Isleton as "this perennially struggling Delta hamlet."

After several requests to establish marijuana collectives in Isleton, in March 2010 the city council passed an "urgency ordinance" (CC2010-02) imposing a 45 day moratorium on such collectives within the city. The council recognized conflicts between federal and state law on the use of medical marijuana and that other cities have experienced safety and welfare problems caused by collectives within their jurisdictions. The moratorium was to give the city time to evaluate the situation. That evaluation would soon be tested.

Delta Allied Growers (DAG) was little more than a gleam in the eyes of the developer when the owner approached the city in mid-2010 with a proposition that should have seemed too good to be true. The owner proposed a commercial marijuana farm in Isleton, the harvest of which would be sold to dispensaries in southern California. The city Manager responded with alacrity, setting up a timeline that would bring the project to the

council for approval by early September. No one appears to have known that DAG was not a legal entity at that time. It incorporated as a non-profit public benefit corporation on September 22, 2010, after the city council had endorsed the project.

The promised benefits to the city would be substantial. The project would not only generate substantial income for the city and create jobs for local residents, but DAG would provide surveillance cameras within the city, up-grade the police department's computer system and install computers in the city's police cars. The details of the project were spelled out in a letter application prepared by the City Manager, the City Attorney and DAG just 13 days after the initial presentation at a community forum on July 21.

In order to meet the timeline in the DAG proposal, the city had to take several specific actions. It had to conclude that the project was not subject to California Environmental Quality Act (CEQA) standards, although it probably was, thus avoiding a six to nine month delay. It also had to revise a city ordinance, which it did, deleting reference to federal law and insuring that the project would be in jeopardy only if it were found to conflict with state law. The city leaders of Isleton were assured by the City Attorney, DAG's lawyer and other "experts" that the project would conform to state law and the Attorney General's guidelines.

The DAG proposal was signed by the Isleton City Manager on November 12, 2010. However, early 2011 the project was in trouble. As Isleton's plans became public knowledge both the Sacramento County District Attorney and the U.S. Attorney expressed concern. The District Attorney joined with the Sacramento County Grand Jury in an investigation, and before testimony before the grand jury was completed, DAG reportedly buried more than one thousand marijuana plants and apparently abandoned the project.

The grand jury concludes that the City of Isleton was highly vulnerable to a seemingly lucrative proposal, and that DAG exploited that vulnerability. However, city officials compounded the problem, by failing to exercise due caution, by failing to keep city council members fully informed, and by failing to ask obvious questions. The grand jury also concludes that this situation might never have arisen if state law and guidelines regarding medical marijuana were more definitive and had been more carefully observed.

Background and Facts

The saga of Isleton's involvement with DAG and its owner began on July 21, 2010. The owner and a security consultant appeared at a public workshop with a PowerPoint™ presentation describing an operation in which marijuana intended for medical use would be grown in greenhouse facilities in Isleton. This operation was to be under the control of DAG, which claimed to be a not-for-profit entity under California law, and to be insured by Lloyd's of London. The presentation promised the city would receive 3% of gross revenues amounting to as much as $600,000 in the first year of operation with a potential to exceed that amount in subsequent years. It also claimed that over 50 people would be employed full time with benefits to run the facility. The presentation quoted a statement attributed to U.S. Attorney General Eric Holder that federal authorities would "no longer raid medical marijuana clubs that are established legally under state law."

DAG proposed to open a 15,000 square foot cultivation area with seven structures at the beginning of the project, and to phase in an additional 15,000 square feet of cultivation area and eight more structures at some unspecified time in the future. The sizes of the structures varied, the largest building being approximately 4,000 square feet. The proposal contemplated an elaborate fencing system around the perimeter of the facility. Included in the presentation were drawings of the proposed buildings on a site at 6th and Jackson Streets. The presentation gave an air of financial soundness and legitimacy.

Thirteen days after the presentation, DAG and the City of Isleton, represented by the City Manager and City Attorney, reached a comprehensive agreement in principle. The agreement ultimately served as DAG's application for the "expedited approval" of a conditional use permit, approval of a development agreement, and necessary amendments to city zoning ordinances. The letter application laid out a schedule for achieving the ultimate goal of having everything approved by the city council by September 3, 2010. This included special meetings of the city planning commission and of the city council on dates specified in the application. The application stated that the schedule would be achievable if the project were exempt from CEQA.

The application contained a number of terms. An application fee of $100,000 was to be paid by DAG with $20,000 paid on submission of the application and the remaining amount paid after approval of the project. The scope and type of project was described, as were the anticipated terms of a development agreement between the city and DAG. One such term stated that the city would receive $25,000 per month or 3% each year of the gross proceeds, whichever was greater.

Under this application, the Isleton City Attorney was to be paid by DAG to help expedite the procedural aspects of the application. These aspects would include drafting required documents such as staff reports and ordinance amendments, and attending planning commission and city council meetings that the City Attorney would not otherwise attend. The attorney would be compensated at a rate of $100 more per hour than the rate paid by the city. The application stated that if the City Attorney was perceived as representing both the city and DAG in any way, there could be conflicts of interest. By agreeing to the terms of this application, any conflicts were waived by the city.

The application went before the planning commission on August 12. According to the staff report prepared for the commission by the City Manager and City Attorney, a use permit was required because the proposed project was for a use different from the M-1 Industrial use for which the property was zoned. The staff report also recommended amending a city ordinance that stated that "nothing is intended...to allow zoning uses which are illegal under federal, local or state law or uses involving the retail sale of marijuana, whether for medicinal purposes or otherwise." The amendment specifically deleted the existing words "federal law" from the ordinance. The staff report declared that the project was exempt from the requirements of CEQA, which might require an environmental impact study, concluding that the project would not result in direct or indirect physical change in the environment and that it was exempt under certain other provisions. This position was contradicted by expert testimony.

The planning commission did not approve the desired conditional use permit. One commissioner voted against it because the project location was too close to a church and a school. DAG immediately appealed the decision to the city council.

Ultimately, the city council approved the conditional use permit and the amendment to the zoning ordinance that deleted "federal law" from its text. The City Manager signed the development agreement on behalf of the city on November 12, 2010. Shortly afterwards, an amendment to the agreement allowed DAG to move its operation to 6th and Willoughby Streets. The entire approval process, from the initial PowerPoint™ presentation on July 21st to approving the development agreement, took three and one-half months.

The Development Agreement

The development agreement was essentially a land use agreement that sets forth all conditions and obligations of both DAG and the city of Isleton. It was to remain in effect for 15 years. It incorporated most, but not all, terms of the application signed by the City Manager in early August 2010.

The agreement characterized the $100,000 payment differently from the letter application. According to the agreement, the $20,000 payment was a non-refundable application fee. The agreement makes it clear that the $80,000 administrative fee was payable after all approvals were granted. The money was "to be used in the City's discretion to advance the general interests of the City."

Under the terms of the agreement, the city was to receive 3% of the gross annual "receipts" or "revenue." Both terms appear in the same paragraph and appear to be used interchangeably. The agreement makes it clear that this money was to be paid "in exchange for the City not placing a measure on the ballot this November 2010 to impose a tax on the type of operation the Development Agreement is proposing…." The money was also to be available for the city to use to advance the general interests of the city.

The development agreement promised that DAG would provide surveillance cameras to the city, as well as upgrade the Isleton Police Department computer system and provide computers in the patrol cars. Camera placement was to be determined in coordination with the Isleton Police Chief. Payment for additional officers would come from the 3% of revenues or receipts, or $25,000 per month if receipts fell short of that figure. Payment was to begin in January 2011 even if there were no revenues generated at the time. DAG also promised to repave the road leading into the facility.

The legality of the agreement was addressed within its terms. It promised that DAG would be compliant with all applicable Health and Safety Code sections, and abide by the California Attorney General's Guidelines and any applicable local ordinances. The agreement would be terminated if the project was found to be illegal under California law because it involves cultivation of marijuana. However, if DAG were to appeal the finding of illegality, it would remain in operation unless the City Manager determined that operations created an unacceptable risk to health and safety. The agreement did not address federal law at all. DAG would only cease operations if a court deemed it illegal and could continue to operate until it either got tired of paying for the appeal process or until the California Supreme Court finally determined that it was illegal.

The agreement was not approved by the city council until November 2010. The original site of 6th and Jackson was abandoned and a new site at 6th and Willoughby was specified by an amendment to the original agreement. The new site was a failed housing development created by Del Valle Corporation. There were unoccupied houses constructed on part of the property.

DAG started construction of grow houses and fencing in late March or early April of 2011. According to testimony from employees of DAG, over 1,000 immature marijuana plants were placed in the garages of three model homes on the property. Garden hoses provided irrigation and generators produced power for fans and lights inside the garages. The lights were on and fans were running day and night. One witness testified no lights were visible because there were no windows in the garages.

The construction and movement of marijuana plants onto the property occurred after the Sacramento County District Attorney contacted Isleton city officials in February regarding potential legal issues with this project. The project moved forward until very early May 2011 after U.S. Attorney Ben Wagner sent a letter warning that the project violates federal law. According to testimony from the construction manager of DAG, the owner told him to bury the plants. The witness testified that the plants were buried 10 to 15 feet underground without verification by any city official.

What was Delta Allied Growers?

In the July PowerPoint™ presentation, DAG claimed to be a not-for-profit entity incorporated under California law. This was not true. At the time, the company was not incorporated. A notice of a public meeting about the proposal in early September states that the company "will be" incorporated. DAG did not incorporate until September 22, 2010, after the city council granted the company's appeal from the planning commission's decision.

Moreover, the company did not even have a bank account when this project was first presented to the city. The check for the $20,000 application fee was written on the owner's personal account. A check written in November for $105,000, representing the $80,000 administration fee plus another $25,000 had the name Delta Allied Growers handwritten in the upper left hand corner. That check bounced, but was later honored.

DAG was incorporated as a nonprofit mutual benefit corporation according to the articles of incorporation filed with the Secretary of State. Beyond that, little is known about the company. According to testimony from DAG employees, the company consisted of the owner and three other people, two of whom were friends from high school. All of them had recently come together for this project, the owner being the initial contact.

None of the employees that testified claimed to have invested any personal money into the company or to have worked in marijuana cultivation before. They all moved to the Delta from southern California to work on this project. They had never worked together before. They all anticipated making increasing amounts money as the project developed and began operations. The owner was described as having been in the marijuana business for a while and owning medical marijuana dispensaries in the past.

The grand jury was surprised when DAG employees testified that they obtained medical marijuana cards for problems like insomnia even though they did not intend to use

marijuana. They testified that they believed they needed the cards for participation in the business of growing marijuana.

The employee charged with keeping the books testified the owner had financial backing from a company thought to be located in China. This investor's wire transfer of approximately $1.3 million was received in late 2010. No further information or verification of this event was located.

According to one of the company employees, DAG was to create a new business model to grow marijuana on a large scale and then somehow get it packaged and sent to dispensaries. The employee analogized this model to that of the maker of acetaminophen producing the drug and then sending it to retail sellers to be distributed. This witness also testified that the business consulted with "experts" either "back east" or at UC Davis on what types of marijuana plants produced the best medicinal marijuana that would not create a "high." The witness did not know the name or names of these experts.

DAG did not have a real estate interest in any of the property on which the project was to be built. When the project was to be at 6th and Jackson, a company called Oso Rio, LLC was to "acquire" the property. Oso Rio is the lessee on the agreement to rent the property at 6th and Willoughby. Both DAG and Oso Rio have the same president. In October, Oso Rio sought to buy the 6th and Willoughby property from Del Valle Corporation. The company used Isleton's then mayor, who is a real estate broker, as its agent. Oso Rio was never able to buy the property. It signed a three month lease on the property in March 2011. The mayor made little, if any, money on this transaction.

The development agreement said DAG was to "provide" marijuana to unspecified, permitted dispensaries in southern California. There was nothing in that agreement that described the business operations of the company. It appears that no one acting on behalf of the city asked for any specifics. This was in marked contrast to a January 2011 development agreement reached with Central Valley Caregivers, a collective that was to open a wellness center in Isleton, which might dispense medical marijuana sometime in the future. The agreement with that collective had provisions requiring the collective to provide a plan of operations and a detailed list of the business' employees. Nothing even remotely similar to that was required in the DAG development agreement.

Legality and Regulation of Medical Marijuana

In 1996 California voters approved Proposition 215, titled the Compassionate Use Act. This act states that certain California Health and Safety Code sections prohibiting use and cultivation of marijuana do not apply to "qualified patients" and their "primary caregivers" if a doctor recommended its use. A primary caregiver is defined in Proposition 215 as one who is designated by a qualified patient and who has consistently assumed responsibility for the housing, health, or safety of a patient.

In 2004 the Medical Marijuana Program Act (MMP) was enacted by the legislature. This program established a registration system for qualified patients and primary caregivers. Participation in the program is voluntary. The MMP also required the California Attorney General to provide guidelines to ensure the security and non-diversion of medical marijuana for non medical purposes. The Attorney General Guidelines (Guidelines) were published in 2008.

The Attorney General offered guidelines to "qualified patients and primary caregivers who come together to collectively or cooperatively cultivate physician-recommended marijuana." The Guidelines recognize that sections of the California Corporations Code and the Food and Agriculture Codes define cooperatives, but do not define collectives. Cooperatives are "democratically controlled and are not organized to make a profit for themselves….but primarily for their members as patrons...earnings must be used for general welfare of members or equitably distributed to members in the form of cash, property, credits or services." The Guidelines used the code sections relating to cooperatives to offer eight suggested guidelines and practices for offering collective growing operations "to help ensure lawful operation."

Among those suggested guidelines and practices are such things as:

- Collectives should only distribute "lawfully cultivated marijuana...only from constituent members.…"
- The cycle of distribution should be a "closed circuit of marijuana cultivation and consumption….."
- The entity should document each member's "contribution of labor, resources, or money to the enterprise."
- Marijuana "may be provided free to qualified patients and primary caregivers who are members of the cooperative or collective, or provided in exchange for services rendered to the entity, or allocated based on fees that are reasonably calculated to cover overhead costs and operating expenses."
- Keep records of their members to show that the amounts of marijuana cultivated and amounts transported are tied to its membership numbers.

The thrust of Proposition 215 combined with the Guidelines seems to suggest a caregiver is a person who is a spouse or close relative of a very ill patient. The Guidelines appear to describe a patient who is growing his/her own marijuana for medical purposes or who is relying on a caregiver and/or small group of patients and caregivers to provide marijuana for medical use.

These Guidelines do not have the force of statute. They are suggestions. However, that does not mean they should be ignored. The development agreement states that the Guidelines would be complied with. No testimony taken, nor any documents reviewed indicate that the city of Isleton asked for, or DAG offered, any evidence of the steps taken to comply with the Guidelines.

Federal laws regarding marijuana are not affected by California state law. As one witness stated, anything to do with marijuana is illegal under federal law. Under the Federal Controlled Substances Act of 1970 it is unlawful to manufacture, distribute or possess marijuana. It is a Schedule I controlled substance under the law. An oft-cited memo from the U.S. Attorney's Office (Ogden Memo) states, in essence, those medical marijuana users who clearly and unambiguously comply with state law will not receive investigative and prosecutorial focus by federal authorities. Nothing precludes investigation or prosecution where there is reasonable basis to believe that compliance with state law is being invoked as a pretext for the production or distribution of marijuana for purposes not

authorized by state law. More importantly, the U.S. Attorney memo continues: “To be sure, claims of compliance with state or local law may mask operations inconsistent with the terms, conditions, or purposes of those laws, and federal law enforcement should not be deterred by such assertions when otherwise pursuing the Department’s core enforcement priorities.”

Federal law is not consistent with state law. Federal law states any use, possession and cultivation is illegal and makes no exception for personal use for any reason. California state law as expressed in Proposition 215 offers no guidelines for the cultivation of marijuana for medical use. The same is true of MMP which focuses on patients and their caregivers. Even though the Ogden Memo suggests federal authorities will not enforce federal law against medical marijuana use, it also clearly states that merely claiming that an operation is in compliance with state medical marijuana laws is not enough to insulate an operation from federal action. The DAG marijuana cultivation project places the city of Isleton directly into the mess created by the confused, incomplete state law and sometimes conflicting federal law.

California Environmental Quality Act

CEQA, enacted in 1970, requires governmental agencies such as a city to identify significant environmental effects of proposed projects and to reduce those impacts through use of feasible mitigation measures. Sometimes CEQA requires the preparation of an environmental impact report (EIR). The DAG proposal was said to be exempt because no significant impacts were anticipated and because it claimed specific categorical exemptions as defined in CEQA itself. Accordingly, no EIR was ever prepared on the project.

Apparently, the Isleton City Attorney determined that no significant environmental impact would result from the construction of the DAG buildings, the paving of roads, or the actual operation of 15,000 square feet of cultivation of marijuana plants. A CEQA expert testified that this conclusion was odd and implausible. The categorical exemptions cited in the staff report do not apply to this project. The expert testified that more information was needed before determining if an EIR was required. The completion of an EIR takes approximately six to nine months, according to testimony of the CEQA expert. That amount of time would interfere with the “expedited” approval schedule proposed by DAG and approved by the city. It appears the desire for expedited approval prevented a careful analysis of whether an EIR was required or not.

Conclusions

It is clear from the testimony of DAG employees that the city of Isleton was targeted for their proposal because of the city’s fiscal problems and its geographic isolation. DAG certainly exploited the opportunity. Testimony showed that the owner made himself widely available to answer questions, even visiting the home of one resident who had strongly opposed marijuana cultivation within the city. Isleton established a moratorium on dispensaries because of concerns about legality and a potential influx of crime. With a promise of substantial income, a project for large scale cultivation of marijuana with the product to be sold in southern California was attractive to city officials.

City staff did not process the proposal in a manner that provided the city council with adequate information. Both the City Manager and the Chief of Police testified that they knew the project fell into a grey area of the law, yet apparently were content to allow the city to enter into an ambiguous situation while taking refuge in the statement that the development agreement was null and void if it violated state law. They made no attempt to check the background of the owner or the financial soundness of Delta Allied Growers, nor did they seek authoritative advice from the District Attorney, the California Attorney General, or the U.S. Attorney. Neither one seemed to worry about the legal status of the project under federal law. Moreover, the fact that the Isleton City Attorney was being paid by DAG to help expedite the approval process suggests an improper financial interest in the project.

The city council did not exercise due diligence before approving the project. They allowed themselves to be pushed by the City Manager's and City Attorney's recommendation for expedited approval without questioning the need for swift action. Despite their previous moratorium on dispensaries within the city, they did not question whether the presence of 15,000 square feet of marijuana plants within the city limits might create a target for large scale crime. City council members testified that they understood this project was in a grey area of the law, but then amended a zoning ordinance to delete the requirement that a use comply with federal law. They all seemed to believe that the development agreement's statement that it would be null and void if found in violation of state law was enough to warrant approval of a proposal of uncertain legality.

The grand jury was disturbed to hear testimony regarding the inaction of city staff in the face of the Sacramento County District Attorney's inquiries. In February 2011 the District Attorney sent a letter to the City Manager and City Attorney informing them of serious concerns about the legality of the development agreement and urging them to provide information on the status of construction and to provide any information that the DA should consider. One month later, the DA sent a letter addressed to the Isleton City Council and the Isleton Mayor at the city office informing them of the February letter. City council members testified that they did not receive this letter, nor were they informed that the letter was in the city office. It appeared to the grand jury that City Council members were largely uninformed about the DA's concerns until grand jury subpoenas were served in April 2011. Elected officials cannot do their jobs if city staff does not provide them with necessary information.

It is apparent to the grand jury that the law relating to the cultivation and use of medical marijuana should be better defined. Patients, doctors, city councils and law enforcement officials at all levels need specific rules to help them make wise decisions and to prevent them from wasting time and money trying to figure out what is legal and what is not.

Findings and Recommendations

Finding 1.0 The City failed to diligently examine the unique and legally precarious DAG proposal to establish a large scale marijuana cultivation facility.

> **Recommendation 1.1** The City Council should establish a policy requiring that appropriate background checks are conducted on project applicants including corporate status, operations or business plans, and financial status.
>
> **Recommendation 1.2** The City Council should insist that the legality of a proposed project is reviewed with all relevant legal expertise, in this case criminal law and CEQA law, that is beyond that of the general practice city attorney.
>
> **Recommendation 1.3** The City Council should establish policies defining when expedited project approval is allowed. These policies should include a requirement that the City Council, in open meeting, expressly approves a request to expedite approval.
>
> **Recommendation 1.4** The City Council must insist that all applicable local, state and federal laws are complied with in any proposal that comes before the council.

Finding 2.0 The City Attorney failed to adequately disclose a potential financial conflict of interest in receiving additional compensation from DAG to draft relevant agreements and ordinances and to expedite their approval.

> **Recommendation 2.1** The City Council should establish and follow conflict of interest policy that is in compliance with existing state statutes and case law.
>
> **Recommendation 2.2** The City should not allow a conflict of interest waiver to be incorporated into a project approval, but should consider it separately in an open meeting.

Finding 3.0 City staff failed to advise the City Council that the Sacramento County District Attorney sent letters to the Council members and the City mayor.

> **Recommendation 3.1** City Council should develop policies and procedures that ensure that important and relevant correspondence is directed to Council members in a timely manner.

Response Requirements

Penal Code sections 933 and 933.05 require that specific responses to indicated findings and recommendations contained in this report be submitted to the Presiding Judge of the Sacramento County Superior Court by September 21, 2011, from:

- **The City Manager of Isleton**
- **The City of Isleton Attorney**
- **The City Council of the City of Isleton**

Mail or hand-deliver a hard copy of the response to:

Hon. Steve White, Presiding Judge
Sacramento County Superior Court
720 9th Street, Dept. 47
Sacramento, CA 95814

In addition, email the response to Becky Castaneda, Grand Jury Coordinator, at castanb@saccourt.com