

FOR IMMEDIATE RELEASE

August 23, 2017

**Investigations Completed by the City of Del Mar;
Community Service Director is Removed for Mismanagement**

***Gave discounted, free use of facilities to friends and others, costing City over \$150,000;
Approved false claims for pay, overtime by one employee totaling almost \$43,000;
Investigator says separate claims against City Manager unsubstantiated***

DEL MAR – The City of Del Mar today announced the results of two third-party investigations into formal employee complaints about the potential misuse of public funds, gifts of public funds and falsification of payroll and overtime records within the Community Service Department and a separate complaint about the City Manager for harassment and other claims.

The first investigation covered 21 allegations that arose from complaints made against the department by some of its own employees. The issues concerned gifts of public funds, falsification of payroll records and overtime, misuse of public funds for personal benefit, failure to follow City policies and procedures, and inappropriate behavior. During the course of the investigation, two employees were placed on paid administrative leave. One of those employees was the Community Services Director, who was placed on paid administrative leave following attempts to interfere and undermine the City's ability to undertake a fair and impartial investigation.

The investigators substantiated 19 of the 21 allegations. The investigation concluded that between 2015 and 2017, Community Services Department staff under investigation waived or discounted permit fees totaling over \$150,000; submitted false claims for pay and overtime totaling \$43,000; hired a part-time City employee as an outside contractor to do work he was already doing as part of his regular job and the employee was paid an extra \$23,000; and made personal purchases on the City's credit card totaling over \$4,500.

The second investigation involved a complaint filed against the City Manager for alleged harassment and retaliatory behavior. A thorough investigation was done by a separate outside third party investigator, who concluded that the claims against the City Manager had no merit and were unsubstantiated.

“Based on the findings of the independent investigators, the City is moving immediately to correct the problems in the Community Services Department,” said Terry Sinnott, mayor. “We are terminating the Community Service manager cited in the report, giving appropriate notice to another employee and working with the City Manager to review all procedures to ensure the

problems identified in the report don't happen again. Fortunately, the quality of the senior team in the department and its staff have continued to provide the finest levels of service during this investigation. We are very proud of our lifeguards and appreciate the critical role they play in ensuring our community is safe and secure."

According to the report, the employees violated multiple City and state codes. Evidence collected during the administrative investigation has been turned over to the San Diego Sheriff's Department for further review, Sinnott said.

Sinnott said the City of Del Mar sets the highest standards for all its employees, and expects good performance from them. When a complaint is received that one or more employees are not meeting standards, the City has a process for launching a fair, impartial, independent and confidential investigation while protecting the rights and privacy of all those involved.

"By waiving and discounting permit fees, these employees essentially gave away City funds to friends, personal acquaintances, and others which were a total violation of the City's established policies and procedures," Sinnott said. "This has been a difficult process because of the outside pressures and media attention generated by some. There was no rush to judgment. The City didn't waver in its mission to conduct a fair, independent and confidential investigation to arrive at the facts, while protecting the rights of the individuals. Based on the findings, we will be putting additional procedures in place within the Community Services Department and look forward to even better results with improved operations and a dedicated adherence to City standards at all levels. Additionally, the Council wants the community to know that we stand behind the findings in the investigation involving the City Manager and have confidence in his ability to review the results of the primary investigation and do what is needed to correct the issues we now know exist."

At a special closed session meeting on August 22, the City Council unanimously agreed that the City Manager and staff handled the investigation with the utmost professionalism.

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Terry Sinnott, Mayor, at (858) 449-0846

Details on Investigations Completed by the City of Del Mar Into Complaints on Community Service Department Mismanagement

The following provides more details on the investigations and timelines recorded in the City Attorney's office.

Investigation Details

The investigation was triggered in late March when the City received complaints from employees in the Community Services Department. Given the nature of the allegations, both employees were placed on paid administrative leave and the City hired an outside firm to conduct a thorough investigation.

The Investigator interviewed 20 employees and reviewed thousands of pages of records. The final report on the two employees covered three years of allegations and consists of 206 pages, with 205 supporting exhibits totaling 1,731 pages. The investigator reviewed hundreds of documents and found that 95 permits processed by said employees in the years 2015 to 2017, provided waivers and discounts totaling \$151,575 at the sole discretion of the employees.

The second investigation began when a complaint was filed against the City Manager for alleged harassment and retaliatory behavior toward one of the employees under investigation in the primary investigation. Initially, some media reports indicated that the complaint also included the City Attorneys' office, but that was not accurate. The complaint only involved the City Manager.

The City Council took immediate action, following the same process as undertaken with the first complaint. It hired outside legal counsel to investigate the allegations. A third-party investigator interviewed 11 witnesses and reviewed a substantial amount of internal information and documentation. The investigator concluded that all allegations made against the City Manager had no merit and were unsubstantiated. The investigator further concluded that the timing of the complaint filed against the City Manager seemed suspicious and potentially retaliatory in nature in that it was filed when the primary investigation was nearing completion.

Summary of the Allegations

The investigation addressed ten allegations involving the Community Services Director and all ten were substantiated. The investigation addressed eleven total allegations with another community services employee, nine of those allegations were substantiated.

The issues involving the Community Services Director included giving inappropriately discounted rates or waiving fees on use of city facilities such as the park and Powerhouse

Community Center to friends, personal acquaintances, non-City residents, former City employees in violation of City policy which cost the City more than \$150,000 in revenues; not following City policies on charging rates established by the City in 2009; allowing one City employee to be paid simultaneously as both an independent contractor and a City employee; not supervising the employee who falsely claimed overtime hours and used a City credit card for personal purchases.

The other community services employee is currently on leave and the City has initiated the process to terminate the employee, which will require going through a process afforded to all general employees through the Memorandum of Understanding between the City and the Del Mar City Employees Association. A third part-time employee who received pay as a City employee and outside contract is also being terminated.

Investigation Timelines

- March 30, April 2: Human resources receives complaints from employees in the community services department, confers with City Attorney's office.
- April 3: Notification of paid administrative leave sent to one employee.
- April 5: Pat Vergne, Director, placed on paid administrative leave for interfering with the investigative process and creating potential liability and exposure for the City.
- April 5-12: Human Resources and City Attorney conduct an initial review of complaints and make a recommendation to City Manager to hire a third-party investigator to undertake a thorough investigation.
- April 13: City Attorney provides City Council with notification and guidance regarding the investigation; Memo issued to Pat Vergne regarding reports of continued interference with investigative process and not following prior directives.
- April 13: City undertakes process to identify and select outside investigator.
- April 27: City Attorney enters into an agreement with outside investigator to launch a third-party investigation.
- May 1: Investigator launches interviews and document review.
- May 12: Additional direction given to Vergne by the City Manager related to potential interference with the investigation.
- July 3: Final interviews completed with Vergne and the employee.
- July 10: Complaint filed against the City Manager; City Attorney advises the Council on hiring outside counsel for third-party investigation.
- July 17: Draft report on the first investigation submitted to the City Attorney.
- July 21: City Council hires outside legal counsel to advise and oversee investigation involving the City Manager. Legal Counsel brings in outside investigator.
- July 24: Investigator launches interviews regarding complaint involving City Manager.
- August 7: Investigation involving City Manager is complete.
- August 16: Outside counsel notified the City Council HR Subcommittee as to the findings of the investigation involving the City Manager.

- August 17: Council received a copy of the notification from outside counsel as to the findings of the investigation involving the City Manager.
- August 22: City Council met in closed session and reported out that the investigation is complete, the claims made against the City Manager were unsubstantiated, and no further action will be taken in this matter.
- August 22: City initiated process of turning the matter involving employees in the Community Services Department over to the Sheriff's Department for further review.
- August 23: Vergne terminated; letter of intent to terminate sent to the other employee who was investigated.

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