

**City of Patterson  
Grand Jury Case # 06-01, 06-03  
2005-2006**

**SUMMARY**

The Stanislaus County Civil Grand Jury (CGJ) received a request from the Patterson City Council (Council) and a related citizen complaint to investigate the mishandling of the building permit fees in the City of Patterson (City.) The complaints contained three main issues:

- 1) The failure to deposit building permit fees (primarily checks) in the amount of \$8.3 million over a five-year period.
- 2) The process by which the Financial Oversight Committee (FOC) was formed, the membership of the committee, bias and conflict of interest, and the Council's acceptance of its final report.
- 3) The ability of the CGJ to be a fair and unbiased body in resolving this issue in spite of the fact that a FOC member was a past CGJ member.

The CGJ interviewed complainants, council members, representatives from Maze & Associates, Precision Inspection Company, Inc. (Precision) and city employees. The CGJ also reviewed a number of documents pertinent to the case, and toured the administrative offices in the City.

The investigation determined the mishandling of checks involved a breakdown in communication and procedure among and between Precision employees and city staff. The city's building department used contract staff supplied by Precision. The finance and building departments critical to processing the checks were not communicating verbally or electronically. No particular city employee was in charge of the day-to-day operation, or acted as a liaison between Precision and city staff to assure that checks were properly accounted for and deposited on a daily basis. In violation of section 2.3 of the Precision contract, a contract employee was holding, handling and storing checks without authorization. City officials were negligent in providing information and training to city employees in regard to Precision's contractual obligations and its importance to the daily depositing of building permit fees. Over a five-year period, these failures became routine for the building permit, finance and Precision employees.

The Council, by recommendation of the Mayor, created the FOC on January 18, 2005. The purpose of the FOC was to monitor and provide feedback regarding the independent auditors, Maze & Associates, who were hired by the Council to investigate the mishandling of the checks. The investigation revealed no conflict of interest with the members of the FOC or Council in regards to their direct work with Maze & Associates. However, the CGJ, through sworn testimony, concluded that the FOC **did** have a bias against City staff. The formation of the committee and membership was limited and lacked written direction from the Council regarding authority and procedures to report their progress. On May 3, 2005, city records indicate that the Council did not either endorse or reject the FOC's final report.

Through sworn testimony, it was learned that on April 9, 2005, the Mayor met with the FOC to provide additional information that he felt the citizens of Patterson were entitled to know. As a result, the FOC expanded their final report to include personnel issues. The CGJ found that the scope of the report was beyond what was authorized by the Council and released to the media without prior Council approval. For this reason, the CGJ recommends that the FOC's report be expunged from City records.

The CGJ discovered that the Mayor had an outstanding check in the building permit office in the amount of approximately \$30,000 for over a year, and that check was one of the undeposited checks in question. His check represents an economic interest, and as such, should have disqualified him from this issue under Government Code 87100.

A member of the FOC served on the 2003/2004 CGJ. Each year a new 19-member jury panel is selected by the Superior Court to investigate and write final reports. The CGJ requires a super majority vote of 12 members to take any action. As a result, one person independently cannot control or influence the outcome of investigations and reports filed by the CGJ. The FOC member in question is not a member of the 2005/2006 CGJ.

## **INTRODUCTION**

Complaints 06-01C and 06-03C requested that the CGJ investigate the concerns relative to the mishandling of building permit funds in the amount of \$8.3 million and the formation and final report of the Council appointed FOC. The CGJ determined through sworn testimony that the issue of undeposited checks first came to the City's attention formally in August of 2004 and was triggered by a developer inquiry. Checks were found in drawers, on desks, and were taken home by a contract employee. Upon further research the City Manager ultimately advised the Council of the problem in October 2004.

The following are issues the CGJ investigated:

1. The process in which the FOC was selected and the definition of its assignment.
2. A possible conflict of interest or bias in regard to the members of the FOC and/or the Council.
3. The acceptance/approval of the FOC report and recommendations to the Council.
4. Mishandling of building permit checks from 1999 to 2004 in the amount of \$8.3 million.
5. The City's response and action to address undeposited checks.
6. The ability of the CGJ to be a fair and unbiased body in resolving the allegations set forth based on the fact that an FOC member was a past CGJ member.

## **METHOD OF INVESTIGATION**

The CGJ interviewed complainants, council members, and representatives from Maze & Associates, Precision, and city employees. The CGJ also reviewed a number of documents pertinent to the case, and toured the administrative offices in the City.

### ***Interviews***

- Complainant
- Citizen of the community
- Council Member
- Representative of Precision Inspection Company Inc.
- Representative of Maze & Associates
- City of Patterson officials and Administrative staff
- City of Patterson employees current and past

### ***Documents Reviewed***

- Contract between Maze & Associates and the City of Patterson
- Contract between Precision and the City of Patterson
- City of Patterson Organizational chart
- City of Patterson Policy and Procedural Manual
- Conflict of Interest Form 700 for Council and senior Administrative staff
- City of Patterson agendas and minutes from October 2004 to January 2006
- Newspaper reports
- Job descriptions for employees of the City

- Oversight Committee report
- Maze & Associates reports
- Internal letters and e-mails
- City of Patterson Personnel Policies and Procedures
- City of Patterson Audit reports, 1996 through 2005
- City of Patterson Management Letters for 1996-2000, 2004 and 2005
- Mayors and Council members Resource Guide 2005 League of California Cities
- Government Code 87100

### ***Site Visits***

- Tour of City offices

### **FINDINGS**

#### **1) The process in which the FOC was selected and the definition of its assignment.**

- The Council, by recommendation of the Mayor, created the FOC on January 18, 2005. From testimony, the intent of the Council was to have the FOC oversee the building permit audit by Maze & Associates. On February 1, 2005, the Council approved a new scope of work for Maze & Associates to audit the services of the building department. The two-member FOC did not include representatives from the community, Maze & Associates or Precision Systems personnel. In addition, written direction by the Council in regard to the committee's assignment was not established, including procedures to report their progress.

#### **2) A possible conflict of interest in regard to the members of the FOC.**

- The FOC was composed of only two members: a Council member who was also a past Finance Department employee, and a private citizen that was also a past City Treasurer. The CGJ's investigation, including a review of the documents pertaining to the FOC's assignment to work with and act as liaison to Maze & Associates, found no conflict of interest within the Committee.
- The CGJ interviewed the members of the FOC and the Mayor under sworn testimony, and concluded that the committee members **did** have a bias against City staff. Additionally, at the April 9, 2005 meeting, the Mayor exercised his influence with the FOC to expand the Committee's report to include personnel issues.

- The CGJ also discovered that the Mayor had an outstanding check (valued at approximately \$30,000) on file in the Building Permit office (for over a year) and that his check was one of the undeposited checks. This appears to represent a type of economic interest that would disqualify him from this issue under Government Code section 87100.

*Government Code section 87100 - No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.*

### **3) The acceptance/approval of the FOC report and recommendations to the Council.**

- The FOC met on April 9, 2005, to discuss the final draft of their report. In addition to the two committee members, the Mayor also attended this meeting. Under sworn testimony it was determined that the FOC decided to expand its initial draft report to include City personnel matters.
- On April 14, 2005, prior to the Council receiving the FOC report a Committee member prematurely released its report to the press. Prior to the next Council meeting on April 15, 2005, coverage of the report was in the *Patterson Irrigator*.
- The reports by Maze & Associates and the FOC were put on the agenda for the Council meeting of April 19, 2005.
- At the April 19, 2005 Council meeting, there was substantial public comment concerning the FOC's report. There was no action taken by the Council other than to reschedule a closed session meeting for April 22, 2005, to consider the FOC's report.
- According to the April 22, 2005 meeting minutes, the Council did not go into closed session but approved the following:
  1. To not have a closed session
  2. To refer the check handling matter to the CGJ
  3. To not take any personnel action until the matter is completed
  4. To refer items on tonight's (April 22, 2005) agenda to future Council meetings
- On April 25, 2005, the City Attorney advised the Council, in writing, that the FOC exceeded its authority and recommended that they disassociate themselves from the report.

- At the May 3, 2005 Council meeting, the Mayor moved to approve the following statement... “The lack of the Council’s direct response to the Accounting Oversight Committee report is not to be construed as an endorsement of the report. It represents the view of the two committee members. The release of the report to the newspapers was not authorized by the City Council.”
- The records indicate that the Council did not either endorse or reject the FOC’s Report.

**4) Mishandling of building permit checks from 1999 to 2004 in the amount of \$8.3 million.**

In the 1990s, the City contracted with Precision to handle their construction permit and inspection process due to its rapidly expanding developments. Precision was responsible for the day-to-day building permit activities. The CGJ investigated the building permit system at Patterson and found the following major flaws leading up to the 2004 breakdown in the processing of building permits and fees:

- The Community Development Director, who presented Precision’s annual contract to the Council for renewal, was involved in the daily contract activities, and had the Precision contract employee handling permits in his department. The Director did not accept financial responsibility for administering and overseeing Section 2.3 of the Precision contract.
- There was no particular city employee assigned the responsibility for the implementation of the Precision contract.
- There was no department level training or communication to discuss the requirements of the Precision contract to ensure a citywide staff understanding of the contract.
- Precision’s contract, section 2.3, requires that its employees not handle any permit fees and that payments go directly to finance to be deposited. The CGJ found that, inconsistent with the contract, a Precision employee was handling and holding permit fees for extended periods of times.
- The contract had been in operation for nearly 8 years, and over the course of time city employees were familiar with the fact that Precision’s employees were handling permit fees. The lack of administration of the contract lead to complacency among city and contract employees resulting in improper processing of permits and handling of funds. Checks and cash were frequently left either on or in the building department’s desk overnight.

- The job of the Precision employee was to input the permit information into a building department computer system and give it a number. This information stayed within the building department and was not transferred either manually or electronically to the finance department. It was only when the Precision contract employee directly provided the permit and fees to the finance department that the information was transferred and funds deposited.
- The CGJ determined through sworn testimony that the city's accounting and building permit systems were not integrated, and thus made it impossible to cross check building permit activity between the finance and building departments.
- One of Precision's employees was asked by city staff to perform tasks outside the scope of its contract. This diverted the attention of the Precision employee away from its contract responsibilities and duties.

**5) The City of Patterson's response and action to address unresolved deposited checks breakdown.**

The CGJ determined through sworn testimony that the issue of undeposited building permit fee checks first came to the city's attention formally in August of 2004 when triggered by a developer inquiry. Checks were found in drawers, on desks, and were taken home by a contract employee. Upon further research the City Manager ultimately advised the Council of the problem in October 2004. The Council took the following actions to resolve the problem:

On November 1, 2004 the Council contracted with Maze & Associates to analyze the City's \$8.3 million undeposited building permits funds and the City's processes for building permits. The March 18, 2005 report to the Council, Maze was able to reconcile all but \$32,779.14. Since that day all checks, including the \$32,779.14, have been reconciled. In addition, Maze calculated the lost interest on undeposited checks to determine the financial impact on the City. Total interest lost was reported to be \$126,866.13. Precision Systems has agreed to reimburse the City for its expenses of the audit plus any lost interest.

- Maze concluded its report with the following recommendations:
  1. The numerical sequence of building permits issued must be accounted for at least monthly.
  2. Amounts collected for building permits must be balanced with the dollar value of permits issued by Precision each month.

3. City employees must receive and immediately deposit all checks without exception; Precision employees should not be allowed to receive checks under any circumstances.
  4. The number and value of building permits issued to a developer should be reconciled with the number of homes built and permit revenues collected at the conclusion of each phase of the development.
  5. The accounting for permits issued each month discussed in Recommendation 1 above should be used to reconcile the issued Permit file (currently held by Finance) with the amount of Precision's bill.
  6. Precision Systems should be requested to obtain a SAS 70 audit of its system.
  7. The Community Development Department should analyze the effect of unrecorded construction on service levels and infrastructure already in place.
- In March of 2006, the CGJ conducted a site visit to the City of Patterson to observe their records and systems. During this visit the CGJ made the following observations:
    1. The Building Permit log is available online and contains each permit's status. There are no skipped sequences on the log.
    2. The City has continued to research the remaining imbalance, which has now been reconciled.
    3. All checks are only given to the finance department by the applicant and immediately deposited.
    4. The City uses the "Springbrook Accounting" system. It is an integrated, modular system that allows the City to monitor the status of permits from any authorized computer terminal in any department.
    5. The City has hired an "in-house" building official and changed contractors to perform the plan review and inspections.
    6. There is a daily reconciliation of permit fees and monies collected. There is also a monthly reconciliation of permit fees and general ledger entries.



**6) The ability of the CGJ to be a fair and unbiased body in resolving the allegations set forth, based on the fact that an FOC member was a past CGJ member.**

The FOC member in question was on the 2003/2004 CGJ. Each year a new 19-member jury panel is randomly selected by the Superior Court to investigate and write final reports. The CGJ requires a super majority vote of 12 members to take any action. A previous CGJ member has no knowledge or input into any current CGJ investigations. The FOC member in question is not a member of the 2005/2006 CGJ.

---

**RECOMMENDATIONS**

**1) The process in which the FOC was selected and the definition of its assignment.**

The CGJ recommends that the Patterson City Council develop a written policy regarding the establishment of Special Assignment/Ad Hoc Committees. This policy shall direct that committees authorized by the Council, include representation from the City Council, City employees and the public at large, as required to perform the committee's assignment in an objective and professional manner. The Council shall clearly define the duties, responsibilities, scope, authority, timeline, and interim and final reports.

**2) A possible conflict of interest or bias in regard to the members of the FOC and/or the Council.**

The CGJ recommends that the above written policy include the following:

- Candidates for appointment by the Patterson City Council to Special Assignment/Ad Hoc Committees should be questioned regarding any potential or ongoing economic or personal conflicts of interest or bias.
- Any real or perceived conflicts of interest shall disqualify the candidate from appointment to the committee.
- The policy shall also disqualify any Council member with any real or perceived conflicts of interest from participating in the selection, assignment, work, or reports of Special Assignment/Ad Hoc Committees.

**3) The acceptance/approval of the FOC's report and recommendations to the Council.**

The records indicate that the City Council did not either endorse or reject the FOC's Report. The CGJ, through sworn testimony and the review of documents, has found that the scope of the report was beyond what was authorized by the Council. For this reason, the CGJ recommends that the FOC report be expunged from the City's records.

**4) Mishandling of building permit checks from 1999 to 2004 in the amount of \$8.3 million.**

- The City of Patterson continues to implement the recommendations of the Maze & Associates' report and that they are integrated into the City Policy and Procedures Manual.
- When the City implements a new contract or related process, a responsible staff member shall be assigned as the contract manager and they shall be held responsible for the implementation, training, coordinating, and monitoring of the terms of the contract.
- The City conduct periodic meetings involving contract implementation by staff and management and should be conducted to answer questions, address problems, and identify process improvements and other issues.