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Agency action ripped

D.A.: Yucca Valley water panel ignored Brown Act

By Joe Nelson Staff Writer

YUCCA VALLEY — San Bernardino County prosecutors have determined that the Bighorn-Desert View Water Agency violated the state's open meeting law when a pay raise and other perks for its general manager were approved without first informing the public.

It is the second time in less than four years that the water board, according to county prosecutors, has violated the Brown Act.

Still, prosecutors decided to let the agency off with a warning after attorneys for the water district said the agency would start providing separate notice on open session agendas when employee compensation is to be considered.

The water agency has denied any wrongdoing.

Johnson Valley resident and government watchdog Jim Harvey filed a complaint with the District Attorney's Office in May, alleging board members during a closed session on April 27 approved a 6 percent pay raise for general manager Marina West. In addition, the board also granted West an extra week of vacation time, an additional \$1,000 for her continuing education and an additional 40 hours of administrative leave.

The water board, however, failed to place information on its agenda disclosing that West's compensation would be discussed, which Harvey alleged was a violation of the Brown Act.

Prosecutors agreed.

In a five-page letter to water agency attorney Wesley A. Miliband on Wednesday, prosecutor Michael Abney pointed out it was West who drafted the meeting agenda, the "very agenda that failed to give notice that increases in her compensation would be considered."

Prosecutors are recommending that board members obtain special training on the requirements of the Brown Act. Whether that will happen was unclear Thursday.

"We believe the facts and law make clear that the board violated the Brown Act," Abney said in his letter.

"While we are satisfied with a promise that similar violations will not occur in the future, we are disappointed that the board fails to acknowledge this violation."

In 2007, prosecutors charged then-water board member Sharon Edwards with two felonies for twice voting on water rates that benefitted her water hauling business, L&S Water Delivery.

Frank Vanella, the prosecutor in that case, strongly criticized the board for repeatedly violating the Brown Act, especially its refusal to address public concerns over secret meetings.

Harvey also led the charge in the 2007 case, which led to the recall of Edwards and board members Mark Maline and Maryan Barkley.

Harvey said nothing has really changed in the last four years as to how the water board conducts its business.

In a telephone interview Thursday, Miliband said the water agency has a "very strong" and "profound respect" for the spirit and letter of the Brown Act.

"I can certainly say that there's a general interest in the agency's board members to fulfill their obligations, and with that certainly all Brown Act obligations," Miliband said.

Terry Francke, general counsel for the open government advocacy group Californians Aware, said prosecutors should have taken a harder line with the water agency, especially given its history. He said it sends the wrong message.

"The law gives the D.A. in these precise circumstances the ability to go to court and draw a line in the sand," said Francke. "And if the D.A. won't do that, even when the circumstances are as clear cut as they are here, I'm not sure what kind of concern the Brown Act has for the D.A. at all."

"They (the water agency) counted on the D.A. being satisfied with a denial and a promise, and apparently they were right. That's all it takes to get the D.A. off your back in San Bernardino County."

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