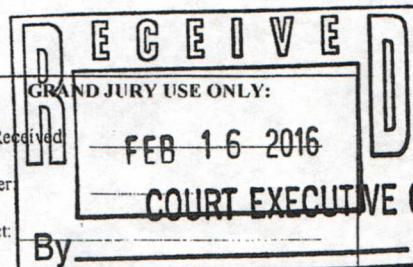


GRAND JURY COMPLAINT FORM



PERSON OR AGENCY ABOUT WHICH COMPLAINT IS MADE

NAME: City of Sacramento
 ADDRESS: 915 "I" Street
Sacramento, CA 95814-260
 TELEPHONE NUMBER: (916) 808-5300

GRAND JURY USE ONLY:
 Date Received: FEB 16 2016
 Number: _____
 Subject: By _____

NATURE OF COMPLAINT (Describe events in the order they occurred as clearly and concisely as possible. Also indicate what resolution you are seeking. Use extra sheets if necessary and attach copies of any correspondence you feel is pertinent. Documentation becomes the property of the Grand Jury and will not be returned. *Please note: The Sacramento County Grand Jury has no jurisdiction over state or federal agencies, the courts, judicial officers, private companies or most organizations.*)

For years the City entered into agreements with neighborhoods to use revenue from cell towers as special fund money going back into the neighborhoods where the cell towers are located without "impacting the General Fund" and as a "mitigation factor" for the neighborhoods affected by the "placement of wireless telecommunications facilities". On or about 2010 the City began telling the public that they needed to temporarily divert the cell tower funds to the General Fund "To assist in closing the City's budget shortfall". Since 2013, however, the City instead used the revenue to expand the general fund to create special spending accounts and to fund a special position for the Mayor's office to work with political organizations. It is my belief that this use of cell tower revenues violated the intent and terms of the original agreements entered into by the City with the neighborhoods as outlined in and endorsed in Resolution 2002-342 as well as the intent of Resolution 2012-020 that called for the repeal of (Resolution 2002-342) in order to access the cell tower funds "to assist in closing the City's budget shortfall". It is my belief that this use of the cell tower revenues, violates the terms of all of the agreements entered into by the city concerning the use of cell tower revenues, and that the redirection of the funds into special city council members accounts and staffing for a political organization is both an impermissible gift of public funds and misuse of public funds for political purposes. It is 2016 and the City has regained "Fiscal Sustainability". The budget shortfall has been resolved. I am asking that the Sacramento County Grand Jury direct the City of Sacramento to take action regarding the impermissible gifts and misuse of public funds and direct the City to begin the process of returning the temporarily diverted funds plus interest at the legal rate, back to the communities from which they were borrowed and resume the deposits to the appropriate neighborhood accounts in accordance with the process as outlined in the Resolution 2002-342 for as long as the cell towers are active in each of the respective neighborhoods.

See Documents attached the the Sacramento County Grand Jury Complaint filed by College-Glen Neighborhood Association President, Annette Deglow on behalf of the Neighborhoods of College-Greens and Glenbrook and their two Cell Towers located in their neighborhood at Oki Park since 1996 and year 2000.

WHAT PERSONS OR AGENCIES HAVE YOU CONTACTED ABOUT YOUR COMPLAINT?

Person or Agency	Address	Date of Contact	Result
Mayor K. Johnson's Office	915 "I" Street 5th Floor	1/5/2016	No Reply to Date
CM Guerra's Office	915 "I" Street 5th Floor	1/5/2016	No Reply to Date
All Councilmembers	915 "I" Street 5th Floor	2/4/16	No Reply to Date
John Silvia	915 "I" Street 5th Floor	2/12/2016	No Action to Date

WHO SHOULD THE GRAND JURY CONTACT ABOUT THIS MATTER?

Person or Agency	Address	Telephone No.
Director of Dept. of Finance	915 "I" Street	(916) 808-8491
Sac. City Manager	915 "I" Street	(916) 808-5704
Craig Powell/Eye on Sacramento	1620 35th Ave suite K	(916) 718-3030

College-Glen Neigh Assoc

YOUR NAME: Annette Deglow, Pres
 ADDRESS: 8424 Olivet Ct
 TELEPHONE NO.: 916-383-6621
Cell 916-806-3138

DRIVER'S LICENSE NO.: G0114070

The information I have submitted on this form is true, correct and complete to the best of my knowledge.

Annette Deglow
 Complainant's Signature

2/14/16
 Date

Grand Jury Complaint by
Annette Deglow, President
College-Glen Neighborhood Association
Sacramento, CA 95826-3009

Related to: City of Sacramento
915 I Street 5th Floor
Sacramento, CA 95814-2604
(916) 808-5300

The attached documents show that for years the City entered into agreements with neighborhoods to use revenue from cell towers as special fund money going back into the neighborhoods "on or near" where the cell towers are located without "impacting the General Fund" and as a "mitigation factor" for the neighborhoods affected by the placement of cell towers. Since 2013, however, the City instead used an amount equal to the cell towers revenue to expand the general fund to create special spending accounts and to fund a special position for the Mayor's office to work with political organizations. It is our belief that this use of the cell tower revenue violates the intent and terms of the original agreements entered into by the City as outlined in and endorsed in Resolution 2002-342 as well as the intent of Resolution 2012-020 that called for the repeal of (Resolution 2002-342) in order to access the cell tower funds "to assist in closing the City's budget shortfall". As such the redirection of the funds into special city council member accounts and staffing for a political organization is both an impermissible gift of public funds and misuse of public funds for political purposes. It is 2016 and the City has regained "fiscal sustainability". The budget shortfall has been resolved. We have asked Mayor Kevin Johnson and our City Councilmember Eric Guerra to begin the process of returning the redirected cell tower revenues intended to assist in closing the City's budget shortfalls to the community accounts that they were redirected from. They have declined to act on our request. As such, we are asking that the Sacramento County Grand Jury to direct the City of Sacramento to take action regarding the impermissible gifts and misuse of public funds and direct the City to begin the process of returning the temporarily diverted funds, back to the communities from which they were borrowed, and resume the deposits to the appropriate neighborhood accounts in accordance with process as outlined in the Resolution 2002-342 for as long as the cell towers are active in each of the respective neighborhoods.

Attached Documents & Background to Support our Complaint:

#1 AT&T Oki Park Cell Tower Resolution No.96-517, dated Sept 24, 1996 and signed by Mayor Joe Serna, Jr. and City Clerk Valerie Burrowes states that: “Permit fees are to be deposited in to Oki Special Park Special Trust Fund for the life of the Revocable Permit.”

#2 In a letter Dated September 15, 1997: “The Citizens Advisory Committee on Parks and Recreation recommended adding language to the resolution that **clarified the intent** to use the proceeds from revocable permits “**on or near** the facility or property for which a permit has been granted.” The document goes on to say: These policies establish a mechanism for enhancing neighborhood improvements and development **without impacting the General Fund**. It also provides a **mitigation factor** for the neighborhoods affected by the placement of wireless telecommunication facilities.

#3 Air Touch/Verizon Oki Park Cell Tower Resolution No. 2000-075, dated Feb. 22, 2000 and signed by Mayor Jimmie R. Yee and City Clerk Valerie Burrowes states that: “All revenue is to be deposited into the Special Recreation Fund 571-450-4731-3670”

#4 Amended Resolution No. 2000-342, dated June 4, 2002 signed by Mayor Heather Fargo and City Clerk Valerie Burrowes states that: “For installations located in City Parks **100 % of all proceeds** collected **from this date forward** will be allocated to Neighborhood Enhancement Programs/Projects **on or near** the facility or property for which a permit has been granted in collaboration and concurrence with the Councilmember with whose district the facility is located.”

#5 Resolution No. 2012-020, dated January 31, 2012 takes action to redirect wireless/telecommunication lease revenues “To assist in closing the City’s budget shortfall” by **repealing Resolution 2002-342**. The community and the neighborhoods with cell towers were repeatedly and consistently advised that the cell funds were needed to “assist in closing the City’s budget shortfall.” Community members were led to believe (threatened) that without access to their cell funds the City’s ability to provide emergency services (Fire Station Brown Outs) reduced police services and basic utility needs would be dangerously and seriously be compromised.

#6 City Council Report dated 5/28/2013 States: “The FY2011/12 Approved Budget directed cell tower and billboard revenue (**with certain exceptions**) to be used **for closing the General Fund budget deficit** for the 2011/12, 2012/13, and 2013/14 fiscal years and directed staff to provide a report on these and other General Fund revenues as part of the FY2014/15 budget development process **relative to the need to continue to direct these resources to balance the**

General Fund. On page 2 under the heading of “Issue” it again states “**To assist in closing the City’s FY2011/12, FY2011/12, FY2012/13, and FY2013/14 budget shortfalls**, Council redirected electronic billboard and wireless/telecommunication lease revenues (Attachment 1¹) to the General Fund (Resolution 2012-020). In the next paragraph it again states, “**Until the City regains fiscal sustainability (base operating costs are less than base revenues)**, the redirection of these resources will continue to be a necessary consideration during the annual budget process. Down the page, under Rationale for Recommendation it states: The proposed FY2013/14 Operating Budget has a General Fund deficit of \$8.9 million unless all employees **pay the employee share** of the required retirement contributions to the California Public Employee Retirement System (CalPERS) or **40.0 FTE are reduced, departments** are reorganized and right-sized within **current fiscal restraints**, and grant opportunities are pursued. Unless the General Fund revenue grows enough to sustain its expenditures, the **cell tower** and electronic billboard **funding should not be reconsidered for alternate uses**. This document **repeatedly** implies that there continues to be a need to **redirect the cell tower funds to the General Fund** in order to balance the budget and at the same time suggest that the **City’s employees** need to make a greater contribution to their retirement fund and that **City departments** need to reduce their size if the City is going to balance the budget.

7 City Council Report: Meeting Date: 6/11/2013 Less than 15 days later, a 45 page City Council Report (Staff/Discussion) under Recommendation: Pass a resolution approving the FY2013/14 Operating and Capital Improvement Program Budgets including Measure U allocation and staffing for FY2013/14 as directed by the City Council on June 4, 2013. This document includes the name of: Leyne Milstein, Director and Dawn Holm, Budget Manager for the Department of Finance; Presenter: John Shirey, City Manager, and Gerald Kicks, City Attorney. It is reasonable to conclude that each of these individuals had to be fully aware of the General Fund allocations contained within this document. On page four (4) of this document it states: **Redirect \$391,500 of the cell tower revenues** from the **General Fund** to each **council district and the Mayor’s operation budget (\$43,500 each)** in FY2013/14. In the same paragraph it states: “ Additionally, as part of FY2014/15 budget development, staff will return with additional options for the disposition of cell tower revenues which will include recommendation to address the **negative effects on neighborhoods** from cell towers. The document goes on to report the addition of a **1.0 FTE Program Analyst to the Mayor’s** office to assist the Mayor during his tenure as an officer with the **United States Conference of Mayors** and the **National Conference of Black Mayors** through FY2014/15. It also included the transfer of a vacant Administrative

¹ Attachment 1 of this document reports that the 27 citywide cell towers total rent for FY/2012/13 = **\$563,496** and for FY 2013/14 = **\$575,475**.

Analyst position from the Dept. of Public works to provide a vacant General Fund position to the Mayor's office.

#8 Approved City of Sacramento FY/2013/14 Budget

Page: 103 of the Approved City FY 2013/14 Budget reports:

The Mayor and City Council's budget was increased by **\$ 566,506**

The Mayor and City Council's Augmentation's included: A General fund increase of **\$86,806** for a full time Staff Aide to **support the Office of the Mayor** and a General Fund increase of **\$88,200** for a **position to assist the Mayor** during his tenure as an officer with the **United States Conference of Mayors** and the **National Conference of Black Mayors** through FY2014/15. In addition there was a general fund increase of **\$391,500** reported as coming from the **cell tower revenue** to be allocated to the **Mayor and City Councilmember's operation budgets (\$43,500 each)**.

In summary, each of the council districts received a prorated share of the increase equal to \$43,500 or 7.7% of the total increase. The Mayor's combined benefits were equal to \$218,506 or 38.57% of the total increase. However, of the Mayor's increase only \$43,500 of the total is cited as coming from the cell tower funds. At the same time it must be noted that that the total increase to the Mayor and City Council's budget for FY/2013/14 was equal to 98.4% of the total rent (\$575,475) for the 27 cell towers in the city council districts as reported on page 4 of Exhibit 6. The notation (with certain exceptions) in the City Council's Report dated 2/28/2013 does not alter the fact that the use of any of the cell tower funds for any purpose other than to "Assist in closing the City's budget shortfall" is contrary to the intent and basis for the repeal of Resolution 2002-342. As such the action equates to an impermissible use of neighborhood revenues and misuse of public funds for political purposes.

9 Tuesday, June 11, 2013 page 16 of the Draft Minutes City Council Financing Authority, Housing Authority published by the City Clerk. Under Council Comments-Ideas, Questions and Meeting/Conference Reports: item b. Member McCarty and Fong: Request to dedicate the newly acquired \$43,000 in **discretionary funds** to Sacramento gang and youth prevention program. The intended use of these funds as set forth by "Citizens Advisory Committee on Parks and Recreation, and endorsed and established by Resolution 2002-342, were intended only for Neighborhood programs and projects on or near where the facility is located. While the redirection of the funds to the Mayor and Councilmembers discretionary funds was an impermissible gift and misuse of neighborhood funds the "Sacramento gang and youth prevention program" is a basic service that should be supported by the general fund not our neighborhood cell tower funds. The actions of Fong and McCarty only further compromised the inappropriateness of the use of the cell tower revenues. Someone should have noted the inappropriateness of the (certain exceptions) (Attachment 6) distribution of the cell tower funds and taken action to restore Resolution

2002-342 if the funds were no longer needed to “Assist in closing the City’s budget shortfall” and return the funds to the neighborhood where they were intended to be used.

10 Letter to College-Glen Neighborhood Association from Council District 6. States: Kevin felt strongly that given the situation, it was not appropriate for the cell tower monies to be taken out of the general fund and put in his “**slush fund**”.

11 Letter to Councilmember Eric Guerra from the College-Glen Neighborhood Association Board asking that he initiate a council agenda item for the City to begin the process of returning the redirected cell tower revenues intended to “assist in closing the City’s budget shortfalls” to the community accounts that they were redirected from.

12 Letter to Mayor Kevin Johnson via his Mayor’s community Budget Meeting from the College-Glen Neighborhood Association Board asking that he initiate a council agenda item for the City to begin the process of returning the redirected cell tower revenues intended to assist in closing the City’s budget shortfalls to the community accounts that they were redirected from.

In summary:

It is incomprehensible to think that, Mayor Kevin Johnson, Vice Mayor Angelique Ashby, District Councilmembers Allen Warren, Steven Cohn, Steve Hansen, Jay Schenirer, Kevin McCarty, Darrell Fong and Bonnie Pannell, City Manager John Shirey and the Department of Finance Budget, Policy and Strategic Planning Division team including but not limited to: Leyne Milstein, Dawn Holm, Dennis Kauffman, Jason Bader, Marian Fahy, Angie Galieote, Virginia Smith and Kim Swaback would review the proposed FY/2013/14 Budget, prepare a staff report outlining an increase to the Mayor and Council’s operating budget in an amount equal to 98.4 % of the total FY/2013/14 Cell tower rent of \$575,475 along with an acknowledgment that \$391,500 of neighborhood cell tower revenues were being redirected to the personal (slush funds) of the Mayor and each councilmember (See Attachment 12) and only Councilmembers McCarty and Fong (See Attachment 13) would take exception to the action. Resolution 2002-342 did not have a provision for (**certain exceptions**) (See Attachment 6 page 1) the use of cell tower funds and Resolution 2002-342 states emphatically that “For installations located in City Parks 100% of all proceeds collected from this date forward will be allocated to Neighborhood Enhancement Programs/Projects on or near the facility or property for which a permit has been granted . . .” If the cell tower funds were not being used “to assist in closing the City’s budget shortfall” they should have been returned to the Neighborhoods where they were generated. The fact that they were being redirected in to the individual operating budgets of the Mayor and each of the

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councilmembers over and above the basic amount allocated puts each of their votes in question and subject to conflict of interest. Somebody in City management had to have questioned the appropriateness of these actions and been aware that they might be perceived as impermissible gift of public funds and misuse of public funds for political purposes.

I restate on behalf of myself, the College-Glen Neighborhood Association Board, and the College Greens and Glenbrook Neighborhoods of which, Oki Park with two cell towers is within, our request that the Sacramento County Grand Jury direct the City of Sacramento to take action regarding the impermissible gifts and misuse of public funds and direct the City to begin the process of returning the temporarily diverted funds, back to the communities from which they were borrowed and resume the rental deposits to the appropriate neighborhood accounts in accordance with the process as outlined in the Resolution 2002-342 for as long as the cell towers are active in each of the respective neighborhoods.