



**EL DORADO COUNTY GRAND JURY  
2013-2014**

**FINAL REPORT**

June 2014



# EL DORADO COUNTY GRAND JURY 2013-2014 FINAL REPORTS

## Mission Statement

*The Grand Jury acts as the citizen oversight for the government of El Dorado County*

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**GRAND JURY**  
**El Dorado County**

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June 20, 2014

To: The Citizens of El Dorado County

Re: 2013-2014 Final Report

I am pleased to present this final report for the 2013-2014 Grand Jury year. This report includes our midyear report published in April 2014. The hard work of this year's Grand Jury resulted in 20 reports from inquiries submitted from citizens and Grand Jury required inspections.

The midyear report has already elicited some response and corrective action. We expect this final report will also bring about positive results to the benefit of the El Dorado County citizens. The reports contained in this publication are diverse and include a range of investigations affecting a number of governmental agencies in El Dorado County.

Although a one year term for the Grand jury sounds like a long time, considering the required depth of investigations and providing comprehensive reports, one year goes by very quickly. As most know, we did not have the benefit of continuity or insight from the previous Grand Jury. We found there are many more issues that could be investigated if time allowed. To that end, our plan is to generate a bridge with next year's Grand Jury in an effort to provide continuity going forward.

Over the course of the first 8 to 9 months of our term as interviews and investigations progressed, we began to see a common theme in a number of our investigations. This became the catalyst for the final report in this publication. The Jury feels the recommendations in all of the reports should be followed. However, we feel if the recommendations contained in report 20 are accepted and followed, El Dorado County will follow the lead of many other California counties and step in to the 21<sup>st</sup> century.

The jury would like to recognize and thank all of the entities within the county including the various county officers, directors and staff for their help and cooperation in completing this report.

Respectfully,

*Neil P. Cunningham*

Neil P. Cunningham  
Foreperson, 2013-2014  
El Dorado County Grand Jury



## SUPERIOR COURT OF CALIFORNIA COUNTY OF EL DORADO

2850 Fairlane Court Suite 110  
Placerville, California 95667

Hon. Douglas C. Phimister

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June 17, 2014

Dear Grand Jury Members

As Supervising Judge of the 2013/2014 Grand Jury, and on behalf of the Superior Court of California, El Dorado, I want to thank you for your hard work, commitment, and dedication to making this year's grand jury successful. During your tenure, you have performed your duties with diligence, impartiality and distinction. Your commitment to examine all aspects of county government and investigate special districts and projects contributes to a better government overall for the citizens of El Dorado County.

One of the primary functions of the Grand Jury is to assist our county government in operating more efficiently. Exceeding this duty, you have included suggestions and recommendations for better government in your report, completing a number of reports on different areas of government and releasing them throughout the year.

Many of you began your service as rookie jurors, never before having served on a Grand Jury, and unsure of what to expect. You came in to an unprecedented situation, the previous Grand Jury having been disbanded. Your commitment to your obligation to see the year through is commendable and deeply appreciated.

Finally, special honors must be given to your foreperson, Neil Cunningham. His leadership abilities undoubtedly contributed to the success of this year's Grand Jury. His management and organizational skills not only assisted in making this year's Grand Jury productive, but also in improving the Grand Jury process for years to come.

Each of you has served your fellow El Dorado County citizens well, and I congratulate you on your 2013/2014 Grand Jury service.

Very truly yours,

Douglas C. Phimister  
Judge of the Superior Court



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**GRAND JURY**  
**El Dorado County**

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## **NOTICE TO RESPONDENTS**

California Penal Code Section 933.05 mandates specific requirements for responding to grand jury reports. You are advised to carefully read the pertinent provisions below and prepare your official response accordingly. Please pay particular attention to required explanations and time frames. Incomplete or inadequate responses are likely to prompt further investigative inquiries by the grand jury and/or the court.

### **RESPONSE TO FINDINGS**

The responding person or entity shall indicate one of the following:

The respondent agrees with the finding.

The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

### **RESPONSE TO RECOMMENDATIONS**

The responding person or entity shall report one of the following actions:

1. The recommendation has been implemented, with a summary regarding the Implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation. It is the expectation of the grand jury that the timeframe be specific and reasonable.
3. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

## **RESPONSES**

There are two different response times set forth in the Penal Code essentially depending upon whether the respondent is elected or not elected.

### ***Public Agencies***

The governing body of any public agency (also referring to a department) must respond within 90 days from the release of the report to the public. The response must be addressed to the Presiding Judge of the El Dorado County Superior Court as indicated in the Response Section of each report.

### ***Elective Officers or Agency Head***

All elected officers or heads of agencies/departments are required to respond within 60 days of the release of the report to the public. Responses must be sent to the Presiding Judge of the El Dorado County Superior Court, as specified in the Response Section of each report, with a copy to the El Dorado County Board of Supervisors.

## **FAILURE TO RESPOND**

Failure to respond as required to a grand jury report is in violation of California Penal Code Section 933.05 and is subject to further action. Such action is likely to include further investigation on the subject matter of the report by the grand jury.

The current Presiding Judge of the El Dorado County Superior Court:

Presiding Judge  
Honorable Suzanne N. Kingsbury  
Department 3  
1354 Johnson Blvd, Suite 2  
South Lake Tahoe CA 96150

The Presiding Judge of the El Dorado County Superior Court additionally requests that your responses be sent in an original “word” file, or “PDF” file to facilitate the economical and timely distribution of such responses. Please e-mail to the Grand jury at: [courtadmin@eldoradocourt.org](mailto:courtadmin@eldoradocourt.org).

Thank you.

# **EL DORADO COUNTY GRAND JURY 2013-2014**

## ***WHERE IS THE IOWA HILL MONEY FROM SMUD?***

Case Number GJ-13-01

### **REASON FOR REPORT**

Many residents in the Camino area of El Dorado County have complained that their area did not receive the monetary proceeds it deserved under the 2005 El Dorado County-Sacramento Municipal Utility District (SMUD) Cooperation Agreement concerning the building of the Iowa Hill Development by SMUD.

### **BACKGROUND**

Since 1957, SMUD has operated a series of electricity-producing dams and reservoirs within El Dorado County. These facilities must be licensed by the Federal Energy Regulatory Commission (FERC). In 2004, SMUD applied to re-license its facilities, as well as propose a new project, the Iowa Hill Pumped Water Storage Facility, that would be located in the Camino area.

The Iowa Hill Facility would pump water from the SMUD-operated Slab Creek Reservoir to the top of Iowa Hill, located 1800 feet above the reservoir, store the water for brief periods of time, then release the water through pipes back down to Slab Creek Reservoir to produce electricity.

SMUD sought to have El Dorado County's approval for both the re-licensing of its current facilities and the Iowa Hill Project by paying certain sums of money on an installment basis to the County.

### **ACTIONS**

- The 61-page agreement and its exhibits between SMUD and the County were reviewed and pertinent provisions of the agreement were analyzed.
- County records were reviewed.
- Members of the past and present County Board of Supervisors were interviewed.
- An evaluation was made as to how monies in the agreement were to be distributed.

## FINDINGS

1. The agreement was entered into as a supplement to earlier agreements between SMUD and the County in 1957 and 1961 regarding the use and operation of the Upper American River Project (UARP) for electric power and water.
2. In 2005, SMUD had to be re-licensed by the Federal Energy Regulation Commission (FERC) to continue operating in the UARP. Under the agreement, SMUD obtained assurances that the County and certain water agencies and districts within the County would not object to the re-licensing. SMUD would continue to plan the building of the Iowa Hill Pumped Storage project.
3. The County was, and is, to receive from SMUD certain different amounts of money pursuant to the agreement. The monies agreed to are as follows:
  - \$2,600,000, payable in two installments; the second installment to be paid not later than August 1, 2012 (already paid)
  - \$590,000 per year after issuance of the new license (already paid).
  - \$250,000 upon SMUD issuing a "Notice of Intention to Proceed" with the Iowa Hill project.
  - \$50,000 per year after the issuance of the "Notice to Proceed."
  - An amount not to exceed \$2,000,000 for socioeconomic impacts of the building of the Iowa Hill project; such money not to be paid prior to construction.
4. The County has received payments under items 3a and 3b above, but as SMUD has not issued a Notice of Intention to Proceed with the Iowa Hill Development, no funds have been paid under items 3c, 3d, and 3e.
5. The agreement describes, relative to items 3 and 4 above, to whom and on what such monies should be spent. Section 4.4 of the contract addresses those issues with the following language: "SMUD's payment as described in Section 4.3 are to be utilized by the County in order to minimize, avoid, or mitigate socioeconomic impacts attributable to the construction of the Iowa Hill Development within those areas of the County affected by such construction. The determination of which specific uses of payments by SMUD under Article IV and consistent with the limitations of the Section are to be made by the County in its sole discretion."

## EVALUATION OF FINDINGS

Because the monies under items 3c and 3d have not yet been paid, but presumably will be paid, the Grand Jury believes it is important to render its opinion as to the meaning of the quoted contract language above to help avoid confusion after the project has been constructed and the socioeconomic impact monies are to be distributed.

The Grand Jury understands that all sentences within a contract have meaning and importance. This leads to the conclusion that the agreement does not simply call for the County to spend this money in any way it sees fit as some have suggested. This sole discretion language is clearly tempered by the sentence indicating that the money is to recompense for socioeconomic impacts within the affected area. Iowa Hill is within the Camino/Apple Hill area of El Dorado County.

The Grand Jury understands that no funds have been paid relative to item 3e above, and no funds will be paid until after completion of construction and assessment of socio economic impact pursuant to Exhibit I of the El Dorado-SMUD Cooperation Agreement. At that time an amount up to \$2,000,000 will be paid by SMUD to the County for the socioeconomic impacts of the construction of the Iowa Hill project.

## RECOMMENDATIONS

Residents of the Camino area should be notified by the Board of Supervisors of these findings. The County should also notify these residents when SMUD issues a Notice of Intent to Proceed with the Iowa Hill Development and continue to advise these residents of the County's receipt of funds under the contract. The County should take steps to ensure that residents have the opportunity to be advised of and participate in decisions about how funds received under this contract are to be spent.

## RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury, presiding judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This Report has been provided to the El Dorado County Board of Supervisors.

The Presiding Judge of the El Dorado County Superior Court additionally requests that the responses be sent electronically as a "Word" file or "PDF" file to facilitate the economical and timely distribution of such responses. Please email responses to the El Dorado County Grand Jury at:

[courtadmin@eldoradocourt.org](mailto:courtadmin@eldoradocourt.org)

## ATTACHMENTS [ Adobe Reader is required to view attachments ]

[El Dorado County Board of Supervisors Spreadsheet for Money Received from SMUD](#)

[El Dorado-SMUD Cooperation Agreement](#)

# EL DORADO COUNTY GRAND JURY 2013-2014

## *EL DORADO COUNTY JAILS INSPECTIONS*

Case Number GJ-13-02

### REASON FOR REPORT

Each year, the grand jury is mandated by California Penal Code §919(b) to “inquire into the conditions and management of the public prisons within the county.”

### BACKGROUND

The South Lake Tahoe and Placerville jails are relatively older facilities, and house county inmates, as well as other inmates that have come to our two jails as a result of the California State Public Safety Act / Assembly Bill 109 (AB 109) authorized in April, 2011.

The original South Lake Tahoe jail was built in 1973 and the Placerville jail in 1988. While the original jail was constructed in 1973, the majority of the facility currently in use is an addition which was erected during approximately the same time frame as the Placerville Jail.

### ACTIONS

This grand jury conducted on-site inspections of the South Lake Tahoe Jail September 23, 2013, and the Placerville Jail on October 21, 2013. At the time of our visits, the jails were at approximately  $\frac{3}{4}$  capacity; South Lake Tahoe at 114 inmates with a capacity of 158, and Placerville housing 243 inmates with a capacity of 311. We interviewed staff regarding the condition and management of the facilities.

### FINDINGS

1. Staff at both jails identified several negative impacts to inmate populations due to California AB 109.
2. In spite of their ages, both facilities appeared to be clean and well maintained.
3. Both jails appeared to be well managed and staff morale seemed to be good.
4. Staff indicated that maintaining adequate female staff has been a problem at both jails, but recent aggressive recruitment efforts have been effective in alleviating that problem.
5. Staff reported that turnover has been a problem at the South Lake Tahoe Jail and to a lesser degree in Placerville.
6. Staff commented that inmates with mental health issues, as well as older and homeless inmates, are an ongoing problem. One staff comment was that jails have become a repository for people with mental health issues.
7. Several inmate programs are offered, including substance abuse, life skills, culinary arts (to include state culinary certification), GED education, and religious services.
8. Medical services are out-sourced to the California Forensic Medical Group.

9. 15% of meals are special diets (religious, diabetic, vegetarian, etc.).
10. Staff at the Placerville facility reported that an additional room where attorneys can meet confidentially with clients is needed because of the lengthy time attorneys must wait to use current rooms. It was noted that the pass-through slot in the existing attorney rooms were quite small (only 4 or 5 pages at a time), and often adds much time to a visit as the transfer of paper back and forth does not easily accommodate typical paperwork.

## EVALUATION OF FINDINGS

As noted in Finding #1, the implementation of AB 109 has created several negative impacts to inmate populations at both of our jails. Since these problems are serious, and affect other county departments including Probation and Sheriff, they will be specifically addressed in a separate grand jury report to be released later this year focusing on how AB 109 has affected our county.

Based on our inspections of both facilities, we commend the El Dorado County Sheriff's Office under the command of Cpt. Peshon for hiring very competent leaders and staff. Our two County Jails are well maintained and operated.

## RECOMMENDATIONS

1. Because of their ages, both Placerville and South Lake Tahoe jails should be evaluated for replacement and/or refurbishment.
2. Reasons for staff turnover at both facilities should be evaluated, and consideration given to adjacent region's salary ranges as well as other retention tools.
3. An advisory team including the Sheriff's Office, county mental health professionals, and other incarceration experts should be formed to make recommendations to improve the care, treatment and housing of mentally ill inmates.
4. Search for a better process for attorney/client paperwork transfer (perhaps in a manner similar to regular mail) to alleviate the attorney wait times. This may eliminate the need for an additional attorney room.

## RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury, presiding judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This Report has been addressed to the El Dorado County Sheriff for review and response, and provided to the El Dorado County Board of Supervisors.

The Presiding Judge of the El Dorado County Superior Court additionally requests that the responses be sent electronically as a “Word” file or “PDF” file to facilitate the economical and timely distribution of such responses. Please email responses to the El Dorado County Grand Jury at:  
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# **EL DORADO COUNTY GRAND JURY 2013-2014**

## ***EL DORADO COUNTY JUVENILE DETENTION FACILITIES INSPECTIONS***

Case Number GJ-13-03

### **REASON FOR THE REPORT**

Each year, the grand jury is mandated by California Penal Code §919(b) to “inquire into the conditions and management of the public prisons within the county.”

### **BACKGROUND**

Both South Lake Tahoe and Placerville have Juvenile Detention Centers. They are managed by the El Dorado County Probation Department. The South Lake Tahoe facility is relatively new (2005), while the Placerville facility was built in 1971. Both facilities can accommodate approximately 40 wards, and at the time of our inspection were at about 50% capacity. The average age of the wards is 13 years.

### **ACTIONS**

This grand jury conducted on-site inspections of the South Lake Tahoe Juvenile Detention Center on September 23, 2013, and the Placerville facility on October 21, 2013. We interviewed both staff and wards regarding the condition and management of the facilities.

### **FINDINGS**

1. Both facilities appeared to be well maintained.
2. Both facilities appeared to be well managed.
3. The kitchen areas were sanitary, and the menus indicate a variety of well-balanced meals.
4. We observed an abundance of programs for the wards, including substance abuse, life skills, work skills, aggression replacement training, goal setting, and a couple of girls only programs.
5. We were told that the local community is involved in providing bible study and church services. The Juvenile Services Council conducts various activities and parties monthly, especially during holidays.
6. Both facilities operate a school program with one principal who oversees Placerville and South Lake Tahoe teachers on staff. The curriculum is tied in to public schools, but specific needs of each ward are incorporated into the study plan. School is in session every weekday for all wards even if incarcerated for only one day.
7. Maintaining adequate female staff had been a problem, primarily at the South Lake Tahoe facility. Recent aggressive recruitment efforts have been effective in mitigating that problem.

8. In the Placerville facility, the south exercise area is not used due to drainage problems. There are cracks in the asphalt, the surface is uneven, and it is not covered. This causes the usable north area to be over-crowded.
9. The Placerville facility does not have a “sally port” (separate entrance for new wards). The public front door of the building is the only accommodation for all entrants. This lack of a separate entrance for new wards creates potential confidentiality and safety concerns.

## EVALUATION OF FINDINGS

We were impressed with the school principal and program manager. We commend the El Dorado County Probation Department for its wide array of schooling and behavior programs for the wards. We liked their stated goal for the kids: “Don’t Come Back”!

## RECOMMENDATIONS

1. Because of its age, the Placerville facility should be evaluated for replacement or extensive refurbishment.
2. The surface of the south exercise area at the Placerville facility should be repaired and an overhead cover installed.
3. A “sally port” (separate entrance for new wards) should be added to the Placerville facility.

## RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury, presiding judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This Report has been addressed to the El Dorado County Sheriff for review and response, and provided to the El Dorado County Board of Supervisors.

The Presiding Judge of the El Dorado County Superior Court additionally requests that the responses be sent electronically as a “Word” file or “PDF” file to facilitate the economical and timely distribution of such responses. Please email responses to the El Dorado County Grand Jury at:

[courtadmin@eldoradocourt.org](mailto:courtadmin@eldoradocourt.org)

# EL DORADO COUNTY GRAND JURY 2013-2014

## *GROWLERSBURG CONSERVATION CAMP INSPECTION*

Case Number GJ-13-04

### REASON FOR REPORT

Each year, the grand jury is mandated by California Penal Code §919(b) to “inquire into the conditions and management of the public prisons within the county.”

### BACKGROUND

Growlersburg Conservation Camp (Growlersburg) was built in 1967. Originally built as an 80-bed camp, it has increased to accommodate 132 inmates. The primary mission of Growlersburg is fighting fires throughout California. They also perform some local brush clearing. It is operated and managed by two entities: California Department of Corrections and Rehabilitation (CDCR) and California Department of Forestry and Fire Protection (Cal Fire). Growlersburg is one of 44 Conservation Camps in California. The staff of 34 consists of 10 correctional officers, 14 Cal Fire staff and 10 CDCR staff. Inmates assigned to Growlersburg have a very low risk level classification; no fences or guard towers surround the facility. Growlersburg provides training in firefighting, emergency response, and other disciplines.

### ACTIONS

This year’s jury inspected the site on September 30, 2013 and discussed operations with the personnel on duty at that time.

### FINDINGS

1. The CDCR staff and Cal Fire staff at Growlersburg appear to interact well with each other and do a good job managing Growlersburg Conservation Camp.
2. Although built in 1967, this facility has been well maintained.
3. The jury members observed good morale at Growlersburg Fire Camp based on positive comments from several inmates.
4. This facility is reasonably self-sufficient. The inmates manage kitchen and laundry services, as well as most repair and maintenance issues. This facility has an on-site garden, which produces over 3,000 pounds of produce each year for camp consumption.
5. We were served the same food as the inmates, and found it quite satisfactory.
6. This facility prepares inmates for life after incarceration. This includes teaching skills in carpentry, mechanics, lumber milling and firefighting.
7. Recreational time is supported by the above mentioned wood working and mechanics shops, an arts and craft area, library, and physical fitness area.

8. Growlersburg operates an 18-wheeler “mobile kitchen” for use at fire sites. It is capable of providing up to 5,000 meals per day.
9. The facility has a family-friendly area for inmates’ families to visit during times when inmates are not out on fire suppression activities.

## EVALUATION OF FINDINGS

Given the many inmate programs and opportunities and the good morale at Growlersburg, we consider this facility deserving of a commendation for excellent management.

## RECOMMENDATIONS

1. At some point in time, in spite of the excellent maintenance, this facility will need to be replaced with modern buildings.
2. Additional physical fitness equipment is needed. Citizen donations are allowed and encouraged.
3. This facility needs a new “cryovac” (food sealing) machine to better service their off-site firefighting food provision role.

## **Responses**

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury, presiding judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This Report has been provided to Cal Fire, and CDCR, as well as the El Dorado County Board of Supervisors.

The Presiding Judge of the El Dorado County Superior Court additionally requests that the responses be sent electronically as a “Word” file or “PDF” file to facilitate the economical and timely distribution of such responses. Please email responses to the El Dorado County Grand Jury at:

[courtadmin@eldoradocourt.org](mailto:courtadmin@eldoradocourt.org)

# **EL DORADO COUNTY GRAND JURY 2013-2014**

## ***IS THE PONDEROSA HIGH SCHOOL FOOTBALL FIELD DANGEROUS?***

Case Number GJ-13-05

### **REASON FOR REPORT**

A citizen complaint was received regarding dangerous depressions on the surface of the Ponderosa High School football field's 4-year-old artificial turf.

### **BACKGROUND**

In 2008, the voters of the El Dorado Union High School District (EDUHSD) approved Measure Q which would provide \$66.3 million in general obligation school bonds to renovate and modernize educational facilities in the district. The EDUHSD consists of nine schools, which include four comprehensive high schools (El Dorado, Oak Ridge, Ponderosa, and Union Mine), three continuation schools, one charter school and one community day school. All Measure Q funds were to be spent exclusively on school improvements – not on administrator or teacher salaries. The EDUHSD Board of Trustees created a Citizens' Oversight Committee (COC) to inform the public concerning the expenditure of bond revenues. The COC actively reviews and reports on the proper expenditure of taxpayers' money for school construction.

### **ACTIONS**

1. The Grand Jury inspected the football fields at El Dorado, Oak Ridge, Ponderosa, and Union Mine high schools.
2. The Grand Jury interviewed relevant staff at three high schools, relevant EDUHSD staff and a member of the EDUHSD Board of Trustees.
3. The Grand Jury met with representatives of Roebbelen, the general contractor involved in the installation of the artificial turf at Ponderosa's football field.
4. The Grand Jury interviewed FieldTurf, the contractor that installed the artificial turf.
5. The Grand Jury reviewed documents chronicling the events and communications regarding a drain trench remediation effort at Ponderosa during the installation of the football field's artificial turf.
6. The Grand Jury inspected the construction plans for Ponderosa's football field.
7. The Grand Jury reviewed the EDUHSD Consolidated Expenditure Reports and the COC's annual reports for Measure Q.

## FINDINGS

1. The cost of replacing the track and football fields with synthetic all-weather materials at El Dorado, Oak Ridge, Ponderosa, and Union Mine high schools was \$10,018,000.
2. At Ponderosa high school, the Grand Jury observed two rows of depressions on the football field's surface running the length of the field. These depressions are located near the middle of the field and parallel to the hash marks.
3. The other football field installed by the same contractor, Roebbelen Construction, was within specified limits.
4. Roebbelen representatives stated that the standard variance for artificial turf installation is 1/4" to level. Measurements were taken of the football field's depressions and it was found that the west hash mark depression has a variance up to 7/8". The east hash mark depression is slightly less, but still outside of the 1/4" variance in many places.
5. The Superintendent stated the new field is better than the old grass field and that it would cost too much to fix the depressions. In a follow-up email, the Superintendent wrote that Ponderosa's football field is inspected each year by the artificial turf's company representatives, FieldTurf Company. The FieldTurf Company is aware of the depressions and has indicated that the depressions have not affected the field's warranty.
6. A member of the EDUHSD Board stated that the Board was advised of these depressions only after the initiation of this Grand Jury investigation. However, the Grand Jury learned that the district was notified three years ago about the field's depressions during the installation of artificial turf at Ponderosa's football field. At that time mitigation efforts were undertaken to address depressions that developed in the field's drainage trenches. The mitigation work that was done was to remove the existing crushed rock to a depth of 6" from all drainage trenches and replace it with larger 3/4" crushed angular rock. The construction plans for Ponderosa's football field showed that the drainage trenches are 24" in depth.
7. Ponderosa High School staff indicated that students have tripped while using the field during school hours.

## EVALUATION OF FINDINGS

Measure Q bond monies totaling \$10,018,000 were spent for the replacement of the track and football fields at the EDUHSD four high schools. Unfortunately, the depressions in the surface of the Ponderosa football field are a constant reminder to the taxpayers that they are paying for a potentially dangerous football field and nothing has been done to make it right.

The Grand Jury is concerned about the field's condition, as it presents a significant safety and liability issue to the school district and its taxpayers. As time passes, the depth of these depressions in the football field may increase and create an even larger safety and liability issue.

## RECOMMENDATIONS

1. The Grand Jury recommends the EDUHS District arrange a meeting within sixty (60) days from the publication of this report. Representatives from all involved parties are to work out a remediation action plan to fix the field depressions.

This meeting should include at least the following parties:

- Roebbelen Construction, Project General Contractor
  - Beales & Alliance, Project Architects
  - Joe Vicini, Inc., Project Grading Contractor
  - FieldTurf Company, Turf Installation Contractor
  - Representatives from Ponderosa High School, and EDUHSD
2. The Grand Jury expects that within 60 days of the meeting the EDUHSD will report back to the Grand Jury with a plan including accountable parties, deadline dates and status update.
  3. The Grand Jury recommends that the cost of this repair work not be paid with Measure Q monies, nor borne by the EDUHSD and its taxpayers.
  4. The Grand Jury recommends that EDUHSD adopt a policy to ensure that completed capital projects are reviewed for proper standards and contract compliance.

## RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury, presiding judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This Report has been provided to the El Dorado Union High School District Board for their review and response.

The Presiding Judge of the El Dorado County Superior Court additionally requests that the responses be sent electronically as a “Word” file or “PDF” file to facilitate the economical and timely distribution of such responses. Please email responses to the El Dorado County Grand Jury at:

[courtadmin@eldoradocourt.org](mailto:courtadmin@eldoradocourt.org)

**ATTACHMENT** [ Adobe Reader is required to view attachment ]

El Dorado Union High School District 6/30/2013 Consolidated Expenditure Report

# **EL DORADO COUNTY GRAND JURY 2013-2014**

## ***BOARD OF SUPERVISORS PERMIT FEE WAIVERS AND REFUNDS***

Case Number GJ-13-06

### **REASON FOR REPORT**

The Grand Jury became aware of the Board of Supervisor's practice of waiving some permit fees that are otherwise required by the Board's own policies and ordinances. Those same fees are paid by other payers in similar circumstances.

### **BACKGROUND**

Board of Supervisors Resolution Number 180-2007, dated 7/10/2007, establishes a building fee schedule that provides specific fees. It gives the Director of Development Services the ability to authorize the refund of any fee erroneously paid or when no permit work is performed.

Board of Supervisors Policy Number B-2, Fee Waiving, revised 2/7/1989, amends policies and procedures regarding consideration of requests for waiver of County fees, permit charges and other administrative costs. It authorizes the Chief Administrative Officer (CAO) to waive permit fees if the CAO makes one of six specific findings.

Board of Supervisors Resolution Number 45-2008, dated 2/12/2008, declares property owners affected by the Angora fire eligible for Permit Fee Waivers.

Article XVI, section 6 of the California Constitution prohibits a gift of public money to an individual without public purpose.

### **METHODOLOGY**

The Grand Jury interviewed members of the Board of Supervisors and county staff.

The Grand Jury reviewed:

- Board of Supervisors Resolution Number 180-2007.
- Board of Supervisors Policy Number B-2.
- Resolution Number 45-2008.
- A Board of Supervisors meeting agenda Item 11-1161 in which the Board approved the refund of grading permit and asbestos dust mitigation fees.
- A Board of Supervisors Board meeting agenda Item 12-1103 in which the Board approved the waiver of any and all permit fees for needed improvements to wheelchair and handicap access to a home.
- A List of Building Permits with Waived Fees for Years 2009 through October 3, 2013 provided by the County's IT department.
- Article XVI, section 6 of the California Constitution.

## DISCUSSION

A list of permit fee waivers for the five year period 2009 through October 3, 2013 was reviewed. Almost all were waived by the County Administrative Officer pursuant to the specific provisions of El Dorado County Fee Waiving Policy B-2 with three exceptions.

1. A waived fee for Permit Number 203375 grading and asbestos dust mitigation.
2. A waived fee for Permit Number 209320 for construction of a wheelchair access ramp following the catastrophic injury suffered by the home owner's teenage son.
3. Fees for homes damaged or destroyed in the Angora fire of 2007.

The waivers appear to have been granted without an attempt to identify and reimburse permit fees paid by other owners for grading permits, homes remodeled to accommodate the needs of a family member incapacitated by a catastrophic injury or properties destroyed by a fire other than the 2007 Angora fire. Similarly situated property owners were not treated in a commensurate manner.

The Board of Supervisors reimbursed permit fees in each of these situations without stating the public purpose that made it appropriate to do so.

Article XVI, section 6 of the California Constitution prohibits any "gift" of public money to an individual. Expenditures of public funds must have a public purpose. (75 Ops.Cal.Atty.Gen. 20) However, under the public purpose doctrine, public funds may be expended only if a direct and substantial public purpose is served by the expenditure, and private individuals are benefitted only as an incident to the promotion of the public purpose. (California Housing Finance Authority v. Elliott (1976) 17 Cal.3d 575, 583.)

## FINDINGS

1. Permit fees were required and paid for a Grading Permit and asbestos mitigation. The Board authorized reimbursement of the already paid fees. They were subsequently reimbursed.
2. Permit fees were required for a wheel chair ramp to be added to a home after the owner's teenage son was critically injured. The Board authorized waiver of these fees.
3. The Board has approved waiver of permit fees for owners of property burned in the Angora fire of 2007. Neither Resolution No. 180-2007 nor Policy B-2 nor any other policy authorized refund of these fees. No public purpose was stated for the refund of these fees
4. The Grand Jury found no evidence that the Board sought out or provided relief to others in similar circumstances for grading of property, property lost in fire or the remodeling of a home made necessary by a family member's critical injury.
5. The Grand Jury finds that reimbursement of these fees was a gift of public funds in violation of Article XVI of the California Constitution.

## RECOMMENDATION

1. The Grand Jury recommends that the Board of Supervisors no longer waive or reimburse permit fees unless they are specifically allowed by a Board Policy, California Constitution or State statute. Waving fees in an ad hoc manner gives the impression of collusion and favoritism.

## RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury, presiding judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This Report has been provided to the El Dorado County Board of Supervisors.

The Presiding Judge of the El Dorado County Superior Court additionally requests that the responses be sent electronically as a “Word” file or “PDF” file to facilitate the economical and timely distribution of such responses. Please email responses to the El Dorado County Grand Jury at:  
[courtadmin@eldoradocourt.org](mailto:courtadmin@eldoradocourt.org)

## ATTACHMENTS [ Adobe Reader is required to view attachments ]

[El Dorado County Board of Supervisors Resolution No. 180-2007](#)

[El Dorado County Board of Supervisors Policy B-2](#)

[El Dorado County Board of Supervisors Resolution No. 45-2008](#)

[El Dorado County Board of Supervisors Agenda Item 11-1161](#)

[El Dorado County Board of Supervisors Agenda Item 12-1103](#)

# **EL DORADO COUNTY GRAND JURY 2013-2014**

## ***PLACERVILLE OUT-PATIENT MENTAL HEALTH FACILITY***

Case Number GJ-13-07

### **REASON FOR REPORT**

There have been many news stories and much media attention over the past expressing concern regarding the lack of treatment and housing for mentally ill people in the United States. Members of the El Dorado Grand Jury wanted to identify the types of programs and facilities available in this county for individuals manifesting signs of mental illness.

### **BACKGROUND**

Grand Jury members visited the El Dorado County Out-Patient Mental Health Facility on November 11, 2013. This facility handles both juvenile and adult clients, and provides counseling services, as well as medication.

This facility is newly leased (October, 2013) space for the county. It is located at 768 Pleasant Valley Road in Diamond Springs. The prior facility was located at 670 Placerville Drive in Placerville. A review of relevant financial material regarding the new and old leases indicates that the county will save approximately \$682,000 over the 10 year term of this new lease. At the time of our visit, the county mental health group had been in this new facility just 2 weeks.

We interviewed two staff members who were on site at the time of our visit. We were escorted throughout the entire building to inspect the new facility, and discussed the space as well as the various programs available for clients. There are 48 people on staff.

### **FINDINGS**

1. Having just been refurbished, the building is in excellent condition, although its unusual architectural design does not facilitate easy accessibility throughout the structure.
2. A new well-equipped community activity center has been established for adult clients.
3. There is a confidentiality issue in that some of the areas where service providers and patients discuss issues and treatment are not sufficiently soundproofed.
4. There is no interior access between floors one and two. Programs for adults are on the lower floor, and parents and children are seen on the upper floor. However, staff has to go outdoors to access one floor to the other; walking across the parking lot or using the uncovered exterior stairway.
5. Since there are separate entrances for both the adult programs on the lower floor, and the juvenile programs on the second floor, the facility has been certified as ADA (Americans with Disabilities Act) compliant.
6. The parking capacity at the facility (which was not adequate at the time of our visit) has now been increased to fit the building's use needs.

7. Outdoor direction signs at the facility are nonexistent.

## RECOMMENDATIONS

1. Soundproof the areas in the building where service providers interact with clients.
2. Install outdoor direction signs so clients can easily determine where to park and access the proper segment of the building.
3. Cover the exterior stairway to ameliorate safety concerns in inclement weather.
4. After this department has been in this new space for six months, investigate the need and feasibility of creating an interior stairway/elevator for interior access between floors one and two.

## RESPONSES

Responses to both findings and recommendations to this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury, presiding judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This Report has been addressed to the El Dorado Department of Health and Human Services for review and response, and provided to the El Dorado County Board of Supervisors.

The Presiding Judge of the El Dorado County Superior Court additionally requests that the responses be sent electronically as a "Word" file or "PDF" file to facilitate the economical and timely distribution of such responses. Please email responses to the El Dorado County Grand Jury at:

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# **EL DORADO COUNTY GRAND JURY 2013-2014**

## ***PLACERVILLE PSYCHIATRIC UNIT HEALTH FACILITY***

Case Number GJ-13-08

### **REASON FOR REPORT**

There have been frequent news stories during the past several years that have caused concern regarding the lack of treatment and housing for mentally ill people in the United States. Members of this Grand Jury wanted to identify the types of programs and facilities available in this county for individuals manifesting signs of mental illness.

### **BACKGROUND**

Grand Jury members visited the Placerville Psychiatric Unit Health Facility (PUHF) on November 4, 2013. This is an in-patient facility. The facility is funded (50/50) from state and federal subsidies, but operated by the county. The building was constructed in 1949 as a county hospital. In spite of the fact that it is now 64 years old the building seems to be in reasonably good shape. All areas have recently been painted. New, more functional furniture, including beds, have been installed. The heating and air-conditioning system is old but appeared to be adequate at the time of our visit.

The bed capacity is 16 patients; 12 were in residence at the time of our visit. Patients are referred to the facility by the county sheriff's department or Marshall Hospital and evaluated by the facility's crisis team. PUHF is considered an acute, short term facility. A majority of patients (approximately 75%) are affected by substance abuse and almost 50% are considered homeless. Patients spend an average of 10-13 days at the facility before being discharged. At the time of discharge patients are referred to the Placerville out-patient facility, or if deemed necessary, to involuntary residential facilities. Otherwise, they are returned to health facilities in their original counties of residence.

The Medical Director is a full-time psychiatrist who sees patients every week in individual sessions that last up to 30 minutes. Staff includes a program director, program coordinator, 8 full-time and 3 part-time nurses, 2 therapy clinicians, a cook assisted by nine para-professional mental health assistants who work on a rotating part-time basis, and 2 office administrators. Twenty-four hour staff coverage is needed.

Programs include group therapy, creative arts, coping skills, Alcoholics Anonymous and Narcotics Anonymous.

## FINDINGS

1. The facility appears to be well managed. The engaging program manager is well informed regarding all aspects of this facility.
2. Per staff comments, nurse and especially psychiatrist retention has been a problem due to compensation differentials across the region.
3. An additional psychiatrist has recently been added for a full day on Fridays, as well as another doctor 2-4 hours during the week.
4. When patients are released from PHUF, there is a shortage of transitional housing destinations

## RECOMMENDATIONS

1. The recently increased physician time with patients should be maintained.
2. Investigate staff turnover rates; review adjacent area compensation levels and other retention tools as needed.
3. County Health and Human Services should focus on providing local placement, in the form of board and care residences, for patients in need of further supervision after being discharged from PUHF.

## RESPONSES

Responses to both findings and recommendations to this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury, presiding judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This Report has been addressed to the El Dorado Department of Health and Human Services for review and response, and provided to the El Dorado County Board of Supervisors.

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# **EL DORADO COUNTY GRAND JURY 2013-2014**

## ***PAST ANIMAL CONTROL FACILITY MISTAKES HAVE PROMPTED A BETTER REAL ESTATE ACQUISITION AND LEASING PROCESS FOR EL DORADO COUNTY***

Case Number GJ-13-09

### **REASON FOR REPORT**

A citizen complaint of alleged county fiscal negligence as well as ongoing media attention prompted the El Dorado County Grand Jury to investigate and assess the status of the county's animal control shelter facility. The investigation led the Grand Jury to review the current county real estate acquisition and leasing process.

### **SUMMARY**

The 2006 animal control site purchase and development plan decisions resulted in wasted public funds. New focus and procedures initiated by the Chief Administrative Officer (CAO) have the potential for more professionally qualified individuals and a more responsive facilities function in the county. The new animal control facility is an example of the effectiveness of those new procedures in that it will open this fall on-time and on-budget and at a reasonable cost to tax-payers.

### **ACTIONS**

- Documents reviewed:
  - Purchase contract County/Shinn Ranch dated May 9, 2006
  - Purchase contract for current project dated December 12, 2012
  - County Facilities Division planning grids, and lease schedules.
  - County Procedures
  - County BOS Records
- The complainant and associated witnesses were interviewed.
- Current and former employees of Department of Transportation, Facilities Division, Procurements and Contracts Division, Chief Administrative Office (CAO) and Surveyor's Department were interviewed.
- The new animal control site and building were inspected.
- The Grand Jury made inquiries as to the practices in other California counties regarding leases and acquisitions.

## BACKGROUND - ANIMAL CONTROL FACILITY

In 2006 the county purchased land in the community of El Dorado, referred to as the Shinn Ranch, with the intent of building a new animal control facility. The county had been informed that it would need to move their existing animal control shelter from its Cold Springs Road location near the water treatment plant because that plant needed to be expanded. It was estimated at that time that a new animal control shelter facility built on the Shinn Ranch property would incur a total project cost of \$5,481,000 dollars and take 2 years to complete.

In order to handle animal control needs until the new shelter was completed the county signed a lease in December of 2007 to temporarily operate animal control at 511 Placerville Drive and 415 Placerville Drive at a leased space cost of approximately \$103,903 dollars per year (\$84,000 dollars for the shelter space, plus \$19,903 dollars for the administration space). There were other ancillary costs including operating inefficiencies due to the shelter and administration being in different locations and from the necessity to house large animals off-site. The county animal control operation is still in those spaces nearly seven years later.

In January of 2012 the revised cost estimate for the Shinn Ranch property project increased to \$11,900,000 dollars, over \$6,000,000 dollars *more* than the original estimate. The Grand Jury identified a number of components causing this huge increase in project cost:

- The Shinn Ranch property and building plan specifics were selected by the BOS *despite* staff recommendations of other less costly yet suitable options.
- The Shinn property had some major use restriction problems: a stream bed running through the property and oak trees that could not be removed greatly reduced the usable space for build-out and use of the 10 acre property.
- The property required costly road and utility access.
- The onset of the recession affected the financial dynamics between building new versus buying property with existing building(s).
- There were concerns at that time that county staff did not have adequate project management capabilities.

The county has long since acknowledged that the Shinn Ranch project was rife with problems. At the April 17, 2012 Board of Supervisors (BOS) meeting the CAO opened the proposed new animal control shelter site agenda topic with “a ‘mea culpa’ that she described as a ‘well-deserved F’ for our performance on the animal control shelter and the many times we’ve stumbled over the past seven years”. The Grand Jury notes that these problems occurred under a prior BOS and CAO. At the April 17, 2012, meeting the BOS voted to eliminate the Shinn Ranch as an option for the county animal control facility and pursue other suitable sites. The county still owns the Shinn Ranch property with a potential contractual obligation for road and utility improvements.

The county began a new site search following that April 17, 2012 Board action and ultimately purchased a 4.6 acre site with an existing on-site 22,000 sq. ft. building in Diamond Springs.

The county now anticipates a September 2014 opening of the new animal control facility with a total project cost that is estimated to be \$5,700,000 dollars; only 4% above the original cost estimate of 2006.

## BACKGROUND – COUNTY REAL ESTATE LEASING AND ACQUISITION PROCESS

The everyday business of El Dorado County happens between the shores of South Lake Tahoe and the rolling hills of El Dorado Hills. Within those county lines lie 740,000 square feet of county owned facilities with an estimated replacement value of a quarter of a billion dollars and 130,000 square feet of leased facilities represented in 25 separate leases at an annual cost of just under \$1,900,000 dollars (attachment A).

In an effort to improve the focus on county facilities the facilities function was moved from a small component in the Department of Transportation to a division under the CAO in late 2011.

The CAO created a cross-functional advisory team in the first quarter of 2012 to help guide *strategy, direction and priorities* in the facilities division. This diverse team, referred to as the Facilities Investment Team, includes two County Supervisors, the CAO, the Assistant CAO, the County Surveyor, the County Assessor, the County Recorder-Clerk, the Chief Budget Officer, the County Sheriff and the Facilities Division Manager. Its mission statement is *“The management and safeguarding of the significant investments in our county facilities, parks and trails. Anticipating the needs of the county in order to provide for uninterrupted services to members of our community. Providing services to departments and visitors that assist with their efficient operations and providing a positive and welcoming environment.”* The role of this team continues to evolve and its members may change over time at the discretion of the CAO.

1. The Facilities Division has created a draft of new procedures (attachment B). The two key changes to past practices are: the inclusion of all appropriate county functions in the purchase or leasing decision making process, and
2. The option to selectively use outside real estate professionals in the research and negotiation process of leases or purchases.

The process of selecting the new Diamond Springs animal shelter site included input and sign-off from all affected departments: Health & Human Services, County Counsel, Procurement and Contracts as well as the BOS. The county used an experienced professional real estate broker with an abundance of resources and market data that added value to the process by providing appropriate site options, assistance in vetting those options and support in negotiating the purchase contract.

The use of an outside real estate broker has met with some negative public comment. The Grand Jury reviewed the most current 2 years of lease and purchase projects. Of those 27 projects, four have utilized the services of a real estate broker. One individual has been used for all four projects. The total value of those four projects was \$8,599,458 dollars; the total net brokerage paid was \$235,020 dollars. As is typical in commercial real estate, these payments were paid by the seller or landlord. These payments represented a commission rate of 2.73% (attachment C).

The Facilities Division and the Facilities Investment Team has brought focus and professionalism to the county's acquisition, leasing and maintenance process. Some recent examples are as follows:

- A new animal shelter on schedule and on budget at \$5,700,000 dollars
- Renegotiated older leases at a savings to the county of over \$5,000,000 dollars spread over 3 to 10 years
- Better utilization of county owned buildings allowing departments to be moved from leased space to county owned space at a savings to the county of \$131,000 dollars annually.
- Performed a complete asset condition audit and provided a prioritized deferred maintenance plan.

## FINDINGS

1. Between Environmental Impact Reports, Architectural Studies and the extended leasing of the temporary facilities in Placerville, the Shinn Ranch site decision cost the county hundreds of thousands of dollars which cannot be recovered.
2. The County has taken steps towards an improved leasing and acquisition process by involving qualified professionals and clear written procedures.
3. The Grand Jury concurs with the creation of the Facilities Investment Team as an advisory body for the facilities function.

## RECOMMENDATIONS

1. The Grand Jury recommends the Facilities Investment Team concept be kept active, but reviewed by the CAO on a regular basis for its effectiveness.
2. Although we found no evidence of improprieties, the same individual was used in each of the four projects where a real estate broker was utilized. We recommend that the CAO and Facilities Investment Team review the procedures and criteria for contracting with a real estate broker and *propose an appropriate policy*. This recommendation should ensure that the selection and decision process is competitive and transparent.
3. The Grand Jury recommends the draft regarding Facilities Division Procedures be formalized by the CAO and then presented to the BOS for adoption.
4. This Grand Jury recommends that the 2014-2015 Grand Jury review and follow up on the response to recommendations 2 and 3.

## RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury, presiding judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This Report has been provided to the El Dorado County Board of Supervisors and the Chief Administrative Office for review and response.

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## ATTACHMENTS [ Adobe Reader is required to view attachments ]

A. El Dorado County Lease Schedule

B. Preliminary Draft- Procedures for Leasing or Purchasing Real Property

C. Outside Broker Commissions

# **EL DORADO COUNTY GRAND JURY 2013-2014**

## ***ALLEGATION OF CONFLICT OF INTEREST IN FACILITIES DEPARTMENT UNFOUNDED***

Case Number GJ-13-10

### **REASON FOR REPORT**

The Grand Jury received an allegation that Chuck Harrell, an employee in the Facilities Department, was involved in the making of a contract between the County and a heating and air conditioning firm in which he has a financial interest in violation of California Government Code § 1090. That statute prohibits public officers or employees from having any financial interest in any contract made by them or in their official capacity.

### **BACKGROUND**

The Facilities Department is responsible for heating and air conditioning contracts for the County. One of the firms that has previously provided heating and air conditioning services under these contracts is Comfort King of Placerville.

Chuck Harrell is employed as the Buildings and Grounds Superintendent within the Facilities Department. Mr. Harrell has worked for the Facilities Department since before 2010.

### **ACTIONS**

- The Grand Jury interviewed County personnel assigned to Facilities Department about heating and air conditioning contracts and reviewed summaries of the contracts made.
- The Grand Jury interviewed persons who have ownership positions at Comfort King.
- The Grand Jury reviewed the applicable contracting, purchasing, and procurement policies of the County and the Facilities Department as well as the applicable state law, Government Code §1090.

### **FINDINGS**

1. The Grand Jury finds that, since his employment with the Facilities Department, Chuck Harrell has not participated in heating and air conditioning contracts and has been specifically excluded from that process. Further, the Facilities Department has not entered into a contract with Comfort King since Mr. Harrell has been employed there. Comfort King has not and has vowed not to bid on any contracts with the County as long as Mr. Harrell is both an employee of the County and an officer of that company.
2. None of the allegations within the reason for this report were proven to the Grand Jury.
3. Mr. Harrell does keep his contracting license with Comfort King and is listed as an officer of that Company, although he has not done any work for the company. Because of these facts, the Grand Jury understands that there can be the appearance of impropriety.

## RECOMMENDATION

1. The Grand Jury recommends that the Facilities Department enter into an agreement with Comfort King that they not bid or procure any contract with the county while Mr. Harrell is an employee of the county and has any association with the company. That agreement should be done in writing and filed with the County.

## RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury, presiding judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This Report has been provided to the Facilities Department and the Board of Supervisors.

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# EL DORADO COUNTY GRAND JURY 2013-2014

## *GOLDEN CENTER PLAZA APPROVED IN VIOLATION OF LEGAL REQUIREMENTS*

Case Number GJ-13-11

### REASON FOR REPORT

The Grand Jury received a complaint from a purchaser of property in the Golden Center Plaza on Missouri Flat Road who complained that he was unable to keep tenants. He lost the property through foreclosure because the El Dorado County Planning Department and Planning Commission failed to review the project plans as required by the County's ordinance and accepted standards.

The Grand Jury found that the Golden Center Plaza was approved in violation of legal requirements.

### BACKGROUND

The complainant observed the shopping center being built in 2006 and purchased a portion of the property in 2006/07 with the expectation that proper design review had been followed by the Planning Department and Planning Commission. Only after he had acquired the property did he realize that there were no on-site loading zones and a shortage of parking stalls with inadequate distribution of those stalls based upon the uses and locations of the stores in the center.

To rectify the absence of on-site loading space, the complainant applied for permission to create a loading zone on the public right of way. Upon the intervention of (now) former Board of Supervisors member Jack Sweeney, permission was granted.

The complainant painted the curbs at the location approved for the loading zone and posted a loading zone sign on the public street adjacent to the shopping center.

### ACTIONS

The Grand Jury interviewed the complainant and County staff.

The Grand Jury reviewed:

- Planning Department files.
- Staff Report-Parcel Map/Planned Development PD03-006/P03-0013 Golden Center Plaza
- Planning Commission Minutes of May 12, 2005
- Board of Supervisor Resolution 236- 2007 (September 25, 2007)
- Parking Restriction Survey Golden Center Drive (No. 1471) (August 15, 2007)
- Board of Supervisor Resolution 236- 2007 (September 25, 2007)
- County Zoning Ordinance
- Planning Services Discretionary Review Process

The Grand Jury visited the site at various times.

## DISCUSSION

El Dorado County adopted a Zoning Ordinance, Title 17, El Dorado County Code, hereinafter “the Zoning Ordinance”. Section 17.12.010 requires

“All departments, officials and public employees of the county which are vested with the duty or authority to issue permits or licenses *shall* conform to the provisions of this article and all other zoning laws and ordinances ...” (emphasis added)

### ***Required staff review***

Section 17.04.010 of the Zoning Ordinance provides

The planning division staff shall review the proposed plan(s) and make appropriate comments and suggested changes in the plan and shall forward the plan with the staff report to the planning commission for their consideration.

Planning staff told the Grand Jury that the ordinance means projects evolve once they are submitted to the County for approval. Staff review the site plans submitted by developers, suggest changes and plans are commonly modified to ensure compliance with County zoning ordinances and accepted standards. Changes are likely to be made to the buildings, encroachments, parking, landscape design and various other components of the project. After the projects have been adopted, minor changes to the development plan may be approved by the Planning Department. Major changes must be approved by the Planning Commission.

In the case of Golden Center Plaza, the Planning Department files indicate only one change was made to the developer-submitted site plan. That change was a revision of the McDonald’s building footprint for which there was no explanation.

Proper review of the plan by planning staff including an internal operations analysis, may have alleviated deficiencies in the plan that have since adversely affected the success of the shopping center. However, no such analysis appears to have been performed. The site plan of the project was essentially approved exactly as submitted by the developer.

### ***Requirements for Off Street Parking and Loading***

Chapter 17.18 of the Zoning Ordinance imposes requirements for the provision of off street parking and loading. Section 17.18.010 states that the purpose of these standards is

...to promote the health, safety, and welfare by reducing street congestion, traffic hazards, and to provide safe and convenient access to businesses, public services and places of public assembly, and to ensure compatibility with surrounding land uses.

Specific requirements delineate the number and kinds of parking spaces that must be provided. Recreational vehicle parking is required for restaurant uses and loading spaces are required for commercial uses. In addition, when a combination of uses is developed on a single site, parking shall be provided based on each of the various uses proposed. Golden Center was approved without provision for either a loading zone or recreational vehicle parking.

There are provisions in the ordinance for exceptions to the parking requirements for a shopping center.. However, those provisions include safeguards to ensure the intent of the Zoning Ordinance is met. Each

project must be evaluated on a case-by-case basis, notifications must be made to adjacent property owners and findings made to ensure the exception is consistent with the General Plan, Zoning, and Improvement Standards. There was no indication that the failure to follow the requirements of the Zoning Ordinance was made pursuant to an authorized exception.

### ***Project Approval***

The original planner assigned to the project left County employment during the processing of the project. A Principal Planner completed the review, signed off on the project, and submitted the project to the Planning Commission without review by the Planning Director.

Golden Center Plaza was approved by the Board of Supervisors on June 7, 2005. The staff report submitted in support of the project indicated that parking for the site was based on a total square footage of proposed development (38,339 square feet) and a parking ratio for neighborhood shopping centers (one on-site parking space per 200 square feet of floor area). The staff report stated the project required 192 on-site parking spaces. Neither the requirement for loading spaces nor for recreational vehicle parking spaces was addressed.

### ***Project As Built***

The project parking approval was initially based on requirements for a general neighborhood shopping center of one on-site parking space per 200 square foot area; yielding 192 required spaces. There are only 188 spaces on site.

As permits for tenant improvements and certificates of occupancy are issued, adequacy of parking must be continually re-evaluated based on parking requirements for each specific use to ensure adequate parking for the project as a whole. Upon completion of tenant improvements and issuance of certificates of occupancy for Golden Center Plaza, a County planner evaluated parking requirements and determined there was a significant shortfall in spaces. Despite a Development Services Memorandum dated December 12, 2006, no County action was taken.

A parking analysis reflecting the final build out of the project was **not** completed.

No provision was ever made for recreational vehicle parking.

The only loading zone ever provided was that which the complainant sought to have created on the public roadway.

Members of the Grand Jury visited the shopping center at various times of the day and week and observed

- Semi-trailer trucks parked in traffic lanes within the shopping center impeding traffic, obstructing parking spaces and preventing cars from entering and leaving those spaces.
- The loading zone on the public roadway has not been used as a loading zone; instead it largely sits empty and is occasionally used by cars for parking.

These observations suggest that vehicular and pedestrian safety is compromised. These deficiencies may have been corrected had a timely internal operations analysis been performed.

## FINDINGS

1. Both the Planning Department and Commission failed to properly review the Golden Center Golden Center Plaza design based on County Zoning Ordinances and accepted standards.
  - a) The shopping center has significantly fewer parking spaces provided than are required by the Zoning Ordinance.
  - b) There is no loading zone on site as required by Zoning Code 17.18.080.
  - c) There are no recreational vehicle spaces as required by Zoning Code 17.18.060
  - d) No internal operations analysis was performed resulting in a highly congested shopping center which does not function well for pedestrians, vehicular traffic or tenants.
2. The lack of professional review by the Planning Department and Planning Commission along with failure to require proper parking, loading zones and recreational vehicle parking resulted in material benefits to the developer in terms of increased building coverage.
3. The action of (now) former Board of Supervisors member Jack Sweeney, interceding with the Director of Transportation to have a loading zone approved on Golden Center Drive, a public right of way, for the benefit of a private development, was inappropriate.
4. When deficiencies in the project became apparent no action was taken to require the developer to fix the deficiencies and bring the project into compliance with mandatory legal requirements.

## RECOMMENDATIONS

1. The Planning Department and Planning Commission need to reevaluate Golden Center Plaza parking as built based upon County ordinances and standards and report to the Planning Commission and Board of Supervisors detailing any shortfall of parking based on County requirements.
2. If it is found by Planning Department and Planning Commission that any shortage of parking exists of any type at Golden Center Plaza, the Director of Development Services should notify the developer of the violation and require the developer to correct such zoning violations through site modifications to parking or other mitigation.
3. If the developer fails to correct the violation, the Director of Community Development or District Attorney should proceed with actions defined under Paragraph 17.12.030 Penalty of Violation of the Zoning Ordinance.
4. The Department of Transportation should not allow private citizens to perform painting of public curbs and erection of signage in a public right of way
5. The Planning Services Discretionary Review Process should be modified to include review of projects by the Department Director as well as the Principal Planner.

## RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05.

Address responses to:

The Honorable Suzanne N. Kingsbury, presiding judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This Report has been provided to the Planning Department, Planning Commission and Board of Supervisors.

The Presiding Judge of the El Dorado County Superior Court additionally requests that the responses be sent electronically as a “Word” file or “PDF” file to facilitate the economical and timely distribution of such responses. Please email responses to the El Dorado County Grand Jury at:

[courtadmin@eldoradocourt.org](mailto:courtadmin@eldoradocourt.org)

# **EL DORADO COUNTY GRAND JURY 2013-2014**

## ***LAKE VALLEY FIRE PROTECTION DISTRICT RADIO EQUIPMENT PURCHASES***

Case Number GJ-13-12

### **REASON FOR REPORT**

The Grand Jury received a complaint alleging that the Chief of the Lake Valley Fire Protection District sold the District radios and related equipment in violation of California Government Code § 1090. The Grand Jury found that purchases made were not in violation of that statute and payment should be made.

### **BACKGROUND**

The Lake Valley Fire Protection District is in Meyers, California. Gareth Harris was first employed by the District in 2005 when he was hired as Fire Marshal and Battalion Chief. He was promoted to Chief of the District on June 18, 2011.

Harris has experience in the radio business long predating his working for the District. He owned Tamalpais Emergency Services in Marin County, a retail store selling radio equipment. One of the services offered was outfitting mobile emergency command vehicles with communications equipment. Harris became a dealer for Kenwood Communications. Kenwood requires its dealers to have specific training and only allows its equipment to be sold by authorized dealers who can also service that equipment. Harris closed his retail store in 2002, but continued to operate the business from his home. When he was hired by Lake Valley Fire Protection District he transferred his Kenwood license to his home in South Lake Tahoe.

When Harris was first employed by Lake Valley, the District had significant communications problems. Radio repeaters were not located properly and officers responding to an incident in the field could not communicate with dispatch. In addition, a change in FCC rules required the District to replace its broad band equipment with narrow band radios by 2013.

Harris began selling Kenwood radios and related equipment to the District beginning in 2008 after being asked to submit a bid by former District Fire Chief Jeff Michael.

California Government Code § 1090 prohibits public officers or employees from having any financial interest in any contract made by them or in their official capacity. Harris reported that he was unaware of this statute prior to this issue being raised by the El Dorado County (EDC) Auditor Controller. Several witnesses reported that Chief Michael said he had checked with the District's attorney about selling to the District.

Harris originally sold radio equipment to the District at 5% over cost. The additional 5% covered his hard costs incurred in configuring, programming and setting up the radios. He did not charge the District for the time he spent configuring, programming and setting up each radio. In his capacity as Fire Marshall and Battalion Chief, Harris had no official responsibilities in the procurement of goods or services for the District.

After Harris became Chief of the District in June 2011, he no longer charged the District 5% over cost but charged exactly what he paid Kenwood and sales tax to the State Board of Equalization.

Harris told the Grand Jury he acted out of concern for the District's budget as it was required to spend significant amounts of money to improve its communications capabilities and meet new FCC requirements.

Harris is proud of the work he did to upgrade communications capabilities for the Lake Valley Fire Protection District and bring it into compliance with FCC requirements. His enthusiasm for this work was apparent to the Grand Jury. He showed the Grand Jury pictures of the equipment he installed and the work of the installation. It required many hours of Harris' uncompensated time. Installing a repeater on Angel's Roost alone consumed approximately 40 hours of Harris' time.

The Chairman of the District Board told the Grand Jury that the Chief had saved the District thousands of dollars. Harris testified that a retailer would have charged 2-3 times the equipment cost for the same work.

Records supplied to the Grand Jury reveal that from August 2008 through July 2009 Harris, doing business as Tamalpais Emergency Services, submitted four invoices and was paid \$7,357.42 by Lake Valley Fire Protection District. From July 2011 through September 2012, while Harris was Lake Valley Protection Fire District Chief, he submitted six invoices and was paid \$6,647.09. These were all approved by the members of Lake Valley Fire Protection District's governing board and paid by the El Dorado County Auditor Controller.

In 2013, the Lake Valley Fire Protection District submitted an additional invoice in the amount of \$6,784.18 for payment. However, on March 20, 2013 the EDC Auditor Controller, Joe Harn, notified the District that he would not pay this invoice because it appeared payment would be in violation of Government Code § 1090. Harn told the District that he would consult with County Counsel and invited them to submit any additional information to County Counsel.

The District's board took no additional action to secure payment of the bill. The radio equipment remains installed and operating. Harris has never been reimbursed for the amounts he paid Kenwood and the Board of Equalization for this equipment. He has ceased supplying radio equipment to the District.

Harris' interest in Tamalpais Emergency Services was reported on his Statement of Economic Interest, Form 700.

## ACTIONS

The Grand Jury interviewed the complainant, Chief Harris, the Chairman of the Board of the Lake Valley Fire District, District employees and EDC Auditor Controller, Joe Harn.

The Grand Jury reviewed documents:

- Invoices from Kenwood Communications to Tamalpais Emergency Services and from Tamalpais Emergency Services to Lake Valley Fire District
- Letter dated March 20, 2013, from Joe Harn, Auditor-Controller, to Lake Valley Fire District
- Government Code § 1090.

## FINDINGS

1. Gareth Harris, doing business as Tamalpais Emergency Services, provided radios and radio equipment to the Lake Valley Fire Protection District while serving first as Fire Marshall and Battalion Chief and later as Chief of the District.
2. While serving as Fire Marshall and Battalion Chief, Harris charged the District 5% over the amounts he paid Kenwood for equipment. Although he certainly had out of pocket costs, the Grand Jury had insufficient information to determine those costs.
3. While serving as Chief, Harris made no profit from the District but charged exactly the sum he paid to Kenwood Communications and to the Board of Equalization. He received no compensation from the District or Kenwood for these sales.
4. Procuring equipment through Harris and Tamalpais Emergency Services saved Lake Valley Fire District substantial amounts of money. Without Harris' assistance in these procurements the District would have faced significant financial hardship in its efforts to comply with FCC requirements to upgrade its equipment. Public safety may well have been jeopardized.
5. While serving as Fire Marshall and Battalion Chief, Harris had no role in making procurement decisions for the District.
6. The only financial interest Harris may have had in sales to the District after he became Chief were those that might accrue in the future from his continued relationship with Kenwood. These are both speculative and de minimis.
7. Gareth Harris, acting as Tamalpais Emergency Services, did not violate Government Code § 1090 when he sold radios and equipment to the District.

## RECOMMENDATIONS

1. The Lake Valley Fire Protection District should resubmit its request that a check be issued to Tamalpais Emergency Services in the amount of \$6,784.18.
2. The Auditor-Controller for El Dorado County should issue the check as requested.

## RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury, presiding judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This Report has been addressed to the Lake Valley Fire District and the El Dorado County Auditor Controller for review and response, and provided to the El Dorado County Board of Supervisors.

The Presiding Judge of the El Dorado County Superior Court additionally requests that the responses be sent electronically as a “Word” file or “PDF” file to facilitate the economical and timely distribution of such responses. Please email responses to the El Dorado County Grand Jury at:  
[courtadmin@eldoradocourt.org](mailto:courtadmin@eldoradocourt.org)

# **EL DORADO COUNTY GRAND JURY 2013-2014**

## ***SHERIFF'S VEHICLE ABATEMENT PROGRAM IS NECESSARY, BUT NEEDS NEW RULES***

Case Number GJ-13-13

### **REASON FOR REPORT**

The Grand Jury investigated the Vehicle Abatement Program because of allegations that the Sheriff's office conspired to take specific vehicles for reasons of profit and personal collection. The Vehicle Abatement Officer may have used the Vehicle Abatement Procedures to obtain vehicles for friends or clients. The Grand Jury found that allegation to be unsubstantiated.

However, during the investigation, the Grand Jury found concerns regarding implementation of the program. Those concerns are addressed in this report.

### **BACKGROUND**

El Dorado County has administered a Vehicle Abatement Program through the Sheriff's Department for approximately 15 years. It is authorized by California Vehicle Code §§ 22660-22717, and El Dorado County Ordinance Code, Chapter 10.16, Abandoned Vehicles. It is implemented by El Dorado County Sheriff's Office Vehicle Abatement Program Standard Operating Procedures (SOP).

In adopting the Vehicle Abatement Program the Board of Supervisors found that

The accumulation and storage of abandoned, wrecked, dismantled or inoperative vehicles or parts thereof on private or public property not including highways is found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects and to be injurious to the health, safety and general welfare. (§ 10.16.010)

The Board then continued

Therefore the presence of an abandoned, wrecked, dismantled or inoperative vehicle or part thereof on private or public property...is declared to constitute a public nuisance which may be abated...

The procedure for abating a nuisance under the Vehicle Abatement Program is briefly summarized as:

1. Identification of a vehicle as a public nuisance. A vehicle may be identified as a public nuisance because it is wrecked, dismantled, inoperative or abandoned on public or private property. Identification may result either from a complaint received from the public or from an officer's observation. Both the Vehicle Code and the County Ordinance authorize the Officer to enter onto private property to examine the vehicle. The Officer is permitted, but not required, to obtain a search warrant.
2. Notice to the last registered owner of the vehicle and the owner of the property on which the vehicle is found. The notice shall be sent 10 days prior to any action to remove the vehicle, shall be sent by registered or certified mail and shall notify the owners of their hearing rights.
3. If no hearing is requested or the hearing officer rules against the owner of the vehicle or property, the vehicle is removed, title is transferred, and administrative costs assessed against the owner.
4. The California Department of Motor Vehicles is notified by the Sheriff's Office of the vehicle's non-operation.

The same Sheriff's Department Vehicle Abatement Officer has been the primary administrator and enforcement officer for ten years.

County ordinance § 10.16.050 provides that the amount to be assessed as administrative hearing costs shall be the amount established in Title 9 of the Ordinance Code or by action of the Board of Supervisors. The cost of removal shall be established by resolution of the Board of Supervisors. Instead, the Sheriff's Office has determined that the costs of the hearing shall be \$100.

During two years ending June 30, 2013, 580 vehicles were given notice as public nuisances. Of these, 529 vehicles were disposed of under the Vehicle Abatement Program.

## ACTIONS

- The Grand Jury interviewed the Sheriff personnel assigned to the Vehicle Abatement Program and reviewed statistics prepared by the Sheriff about the program.
- The Grand Jury reviewed several warrants used by the Vehicle Abatement Officer to enter private property to serve notice or remove vehicles. Sheriff personnel told the Grand Jury that warrants are rarely used. The Grand Jury noted there was little or no showing of probable cause within the officer's affidavit, and each document was vague in the description of the property to be searched and a description of the extent of that search.
- The Grand Jury interviewed 3 citizens who had vehicles towed under this program between 2005 and 2011.
- The Grand Jury reviewed the applicable California State Vehicle Code sections, El Dorado County ordinance chapters, and legal documents.

## FINDINGS

The Grand Jury supports the declared purpose of the Vehicle Abatement Program and finds:

1. None of the allegations identified in the initial reason for this report were proven to the Grand Jury.
2. Most of the vehicles given notice as public nuisances are voluntarily removed by the property and/or vehicle owners.
3. Although search warrants are not often used by the Vehicle Abatement Officer, the warrants issued were deficient in many ways. There was little or no showing of probable cause within the officer's affidavit, and each document was vague in the all-important description of the property to be searched and the extent of that search.
4. Law enforcement and county personnel often came on private property without either a warrant or the consent of the owner to view, give notice or supervise towing of the vehicles.
5. Property owners felt law enforcement and county personnel treated them unfairly by giving notice that their vehicles were public nuisances.
6. Those individuals who did not voluntarily take care of their vehicles by moving or removing them generally did not request a hearing within the 10 day time period allowed and no hearing was held.
7. Ten days to request a hearing is insufficient in a rural county where many people receive their mail at a Post Office Box.
8. The \$100 hearing fee charged by the Sheriff's Office is not authorized by law and may be so large as to inhibit the property owner's ability or desire to request a hearing.
9. Having one individual act as the Vehicle Abatement Officer for ten years has contributed to suspicions surrounding the program. Changing Vehicle Abatement personnel more frequently would improve warrant preparation and relations with property owners.

## RECOMMENDATIONS

We recommend the Sheriff:

1. Discontinue the \$100 fee charged to vehicle and/or property owners who wish to have a public hearing to contest the nuisance finding.
2. Change El Dorado County Sheriff (SOP) procedures to comply with Title 10.16.040 A, where "...regularly salaried full-time employees of the county sheriff's office..." have the ability to administer and enforce the program.

***The Grand Jury acknowledges that during discussion of the concerns arising from this investigation, the Sheriff immediately agreed to make the changes recommended in numbers 1 and 2 above.***

3. Assure warrants for the Vehicle Abatement program are raised to the standard of search warrants generally employed by law enforcement.

We recommend the Board of Supervisors:

4. Amend ordinance 10.16.070 pertaining to Vehicle Abatement to provide increased time for the property owner to request a hearing by allowing 20, not 10, days from the time of actually mailing a notice.
5. The Sheriff is the moving party of the action to take the vehicle. The ordinance should mandate that the hearing officer be independent from the Sheriff's Department so that the hearing will be seen as a fair proceeding.

## RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury, presiding judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This Report has been provided to the El Dorado County Sheriff's Office and the Board of Supervisors.

The Presiding Judge of the El Dorado County Superior Court additionally requests that the responses be sent electronically as a "Word" file or "PDF" file to facilitate the economical and timely distribution of such responses. Please email responses to the El Dorado County Grand Jury at:

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**ATTACHMENT** [ Adobe Reader is required to view attachment ]

El Dorado County Sheriff's Office – Vehicle Abatement Program

# EL DORADO COUNTY GRAND JURY 2013-2014

## *SOUTH LAKE TAHOE PROBATION OFFICE*

Case Number GJ-13-14

### SUMMARY

The Grand Jury undertook an investigation into the work environment at the South Lake Tahoe Probation Department Office after local newspaper coverage indicated there was employee harassment and a pending civil lawsuit.

### BACKGROUND

The Probation Department enforces court orders for persons convicted of crimes and persons released with pending criminal charges. Additionally, The Probation Department may attempt to rehabilitate probationers.

Most El Dorado County departments have offices on the west slope and in South Lake Tahoe (SLT). It is a recognized necessity; the two areas are separated by approximately 80 highway miles over a high mountain pass. The South Lake Tahoe Probation Department office is one of those departments. It's headquarters are in Shingle Springs on the west slope.

### ACTIONS

Sixteen current and former Probation personnel were interviewed about the South Lake Tahoe work place environment.

### DISCUSSION

The employees interviewed are intelligent, well spoken, and dedicated. They have college degrees and many years of probation experience. Yet, most described the work place environment as **toxic**. Supervisors and managers micromanage employees; fostering and allowing a *clique* system that identifies employees as either favored, or *shunned*, by management.

Many complained that those perceived in the non-favored *clique* are overly scrutinized and disciplined for minor administrative issues including requiring written explanations for approved sick days, incorrect punctuation in reports, work files with paperwork not in chronological order, who was (or was not) copied on internal emails or proper use of radios in County vehicles. Employees are unfairly disciplined and made to feel badly about their performance. Some observed that unqualified and favored employees were promoted instead of those qualified but disfavored. Both past and present officers reported they are subject to undue criticism, discipline and relegation to the disfavored *clique* because they choose to ensure compliance with court orders by visiting with probationers in the field. Management prefers they remain in the office without doing field visits. In many instances officers do not talk to other officers. Officers and other employees rarely talk with supervisors.

The cumulative result, described by employees and some managers, is poor morale in and dysfunction of the SLT Probation office as a whole, detracting from their overall mission to enforce court orders. Written bail reviews are often poor quality and there are failures to detect many parole violations.

The Grand Jury found several factors that highlight and perhaps exacerbate the poor workplace environment. All employees are required to read County discrimination, harassment and retaliation policies when hired, however, there is no additional more formal training. There are 11 managers and supervisors overseeing 33 workers; a ratio of one supervisor/manager for three workers. There is a perceived lack of management from headquarters in Shingle Springs, due to both physical separation and lack of interest in the SLT office.

El Dorado County hired a new Chief Probation Officer on December 2, 2013. A week after beginning his duties, the Grand Jury disclosed its findings about the working environment in the South Lake Tahoe office to him. Four months later the new Chief reported back that he had not found the toxic work environment and had made no substantive change to personnel or policies.

The Grand Jury then re-interviewed SLT personnel who reported that, in fact, the same toxic environment continues. However, they believe the new Chief to be well motivated and are hopeful he will institute changes to improve the working environment.

## FINDINGS

1. The *cliques* that currently exist exacerbate an already toxic environment.
2. Unfair discipline, undeserved job promotions, making employees feel badly about their performance, harsh criticism and relegation to a *shunned* status is construed as bullying and harassment. It should not exist for many reasons, both legal and moral.
3. It seems incomprehensible that working from the office is preferred to working in the field.
4. The supervisor/manager to worker ratio appears out of balance.
5. The Grand Jury is hopeful that the new Chief will come to understand the dysfunction in the South Lake Tahoe office and will institute changes that result in positive results.

## RECOMMENDATIONS

1. Eliminating the *cliques* should be an absolute priority.
2. Communication should be encouraged and open without recrimination, so that all employees feel vested in the entire workings of the office and department.
3. The existing dysfunction does not exist by happenstance. The skills of all current supervisors and managers should be intensively reviewed.

## RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury, presiding judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This Report has been provided to the El Dorado County Board of Supervisors and the El Dorado County Probation Department.

The Presiding Judge of the El Dorado County Superior Court additionally requests that the responses be sent electronically as a “Word” file or “PDF” file to facilitate the economical and timely distribution of such responses. Please email responses to the El Dorado County Grand Jury at:  
[courtadmin@eldoradocourt.org](mailto:courtadmin@eldoradocourt.org)

# EL DORADO COUNTY GRAND JURY 2013-2014

## *GRADING OF BOULDER BUMP ROAD*

Case Number GJ-13/14-15

### REASON FOR REPORT

An agent representing a group of homeowners repaired a road easement on another land owner's property. The group of homeowners traversed the road to access their respective properties. Grading to repair the road began without an El Dorado County Grading Permit. The easement property owner complained to the County Department of Transportation and a stop work order was issued. The homeowners' agent applied for and obtained an improperly issued grading permit. Work resumed and a final inspection was eventually done.

The easement land owner complained the road was improperly repaired, widened, his private property was damaged, Maidu Indian protected lands damaged, his privately owned road materials were used without permission or compensation and improper materials were used during the repair that were not certified to be asbestos content compliant.

### BACKGROUND

The homeowner's group agent hired a grading contractor to conduct repairs, replace existing culverts and install new culverts. The contractor started grading without a permit. The County Department of Transportation issued a stop work order after the easement property owner complained. The homeowner's group agent then secured a permit from the County Development Services Department for grading and culverts. The grading and culvert work resumed.

After the grading permit was issued the County Air Quality Management District contacted the agent informing him that an approved Asbestos Dust Mitigation Plan was also needed. The plan was submitted and approved.

The County Development Services Department performed only rough grading, erosion control and final inspections. There was no inspection of culverts. The County Air Quality Management District did not perform any inspections telling the Grand Jury that it was not necessary after Development Services had signed off their final inspection.

The newly graded roadway washed out onto Salmon Falls Road, a County road, sometime after grading was complete. The complainant reported that it was cleaned up by the County Department of Transportation (DOT) and provided photographic evidence of DOT maintenance vehicles at the site of the washout.

## ACTIONS

- The complainant was interviewed.
- Representatives of the County Building Department, Department of Transportation and Air Quality Management District were interviewed.
- Files from Development Services and Air Quality Management relating to the property, permitting and inspection of the grading work were reviewed.
- The County FINAL Revised Grading Design Manual, 2-5-07, Adopted by the Board of Supervisors on 3-13-07 (Resolution #047-2007) was reviewed.
- The County FINAL Revised Grading Ordinance, 2-5-07 (Ordinance #4716) Revised 8-10-10 (Ordinance #4949) was reviewed.
- Board of Supervisors Resolution 048-2007, Implementation of the County Grading, Erosion and Sediment Control Ordinance, dated 2/27/2007, was reviewed.

## DISCUSSION

Board of Supervisor's Resolution 048-2007 designates administrative authority for implementation of the County Grading, Erosion and Sediment Control Ordinance (Chapter 15.14 of the County Code) among the Departments of Transportation, Agriculture and Development Services. The Development Services Department has administrative authority over and responsibility for rural access roads under the General Grading provision; Boulder Bump Road was determined to be a rural access road.

The Development Services permit application and documents for this project were requested by and supplied to the Grand Jury by the County Building Department. They are severely lacking information and plans necessary to 1) properly issue the grading permit as defined in the County FINAL Revised Grading Design Manual, 2-5-07, Section D, and 2) subsequently inspect that the work comported with the plans and county regulations. There was no parcel map, no site plan showing the easement, drainage or location of new and replaced culverts. There was no grading cross section. There was no evidence that the easement did indeed exist, no evidence of a road maintenance agreement among the users of the easement and no evidence that the permit applicant was legally entitled to perform the proposed work.

The approved Asbestos Mitigation Plan and documents requested by and supplied to the Grand Jury by the County Air Quality Management District appear complete. They include a County Surveyor's section map showing the existing road (Boulder Bump) and a topographic site plan showing the easement/roadway, drainage, new culvert locations, culvert replacements and a typical road section that denotes "match existing roadway width."

The grading permit was issued to the homeowner's agent for the parcel he owned. The work was done on the easement property; **a different parcel**. Testimony from Building Department personnel stated that a permit issued to one parcel cannot be used to perform work on another parcel. The approved Asbestos Mitigation Plan was also submitted by and approved to the agent of the homeowner's group but using the easement parcel number where the work was actually done.

It appears that the County Development Services Department was completely unaware of the Air Quality Management Asbestos Mitigation Plan. Both departments enter their data into the County Land Management Information System (LMIS) and both have access to data entered by the other. It also appears that Air Quality was automatically notified of the new Development Services permit, while Development Services was not automatically notified of the Air Quality Plan.

The County DOT was unable to confirm that they cleaned up a washout on Salmon Falls Road saying that they did not keep records or logs of those operations.

## FINDINGS

1. Non-paved private roads are notoriously deficient in meeting any standard. Situations like described here are opportunities to bring them to present day standards through a permitting process that embraces those standards.
2. The lack of information and plans by both the permit applicant and the Planning department make it impossible to validate the complainant's claim. However, the Grand Jury does find that the Planning and Building Departments were deficient in their analysis of the scope of work for the project, acquisition and inspection of documents germane to the permit and subsequent inspections.
3. There was no evidence that the Development Services Department verified the existence of the easement and the permit applicant's legal right to grade it at all, in any manner. Coupled with the improper parcel numbers referenced above the permit should not have been issued.
4. The permit was for roadway repairs and culvert installation, yet there was no inspection of culverts, but merely an inspection of rough grading, erosion control and a final inspection. Further, the Grand Jury finds that Development Services did not properly administer the County Grading, Erosion and Sediment Control Ordinance, and should have neither issued the permit nor inspected the work.
5. The El Dorado County Grading, Erosion, and Sediment Control Ordinance is Chapter 15.14 of the County Code. It is the law of El Dorado County. Public officials failed to follow the provisions of the Grading Ordinance; they failed to follow the law.
6. There was insufficient communication and interaction between the Development Services and Air Quality Management departments.
7. DOT was unable to recover the cost of cleaning up the washout. It did not have any record that it was actually done.
8. All County permit fees paid were later refunded by Board of Supervisors agenda item 11-1161 without explanation.
9. The El Dorado County Grading Ordinance may put undue burden on simple maintenance of rural roads when strict adherence to the Ordinance is practiced.

## RECOMMENDATIONS

1. The Grand Jury recommends that the administrative authority over the issuance of grading permits in Resolution 048-2007 be revised. The investigation of this complaint indicates that Development Services was not capable of properly administering the Grading, Erosion and Sediment Ordinance in this case. The Administration of the Grading Ordinance defined by Resolution 048-2007 should be revised to transfer administration under the headings Encroachments and General Grading from Development Services to the Department of Transportation. The Administration defined in heading Residential Grading should remain with Development Services.
2. The Planning and Building Departments should exercise increased due diligence in the processing of permit applications, analysis of the project and acquisition and inspection of documents.
3. The LMIS system should be improved to provide automatic notifications of one department's activity that affect another department's actions.
4. The County Grading Policy should be evaluated and possibly changed to provide a well-defined, yet less onerous and more permissive permitting process for simple maintenance of rural roads.

## RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury, presiding judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This Report has been provided to the El Dorado County Board of Supervisors, Development Services Department and Department of Transportation.

The Presiding Judge of the El Dorado County Superior Court additionally requests that the responses be sent electronically as a "Word" file or "PDF" file to facilitate the economical and timely distribution of such responses. Please email responses to the El Dorado County Grand Jury at:

[courtadmin@eldoradocourt.org](mailto:courtadmin@eldoradocourt.org)

## ATTACHMENTS [ Adobe Reader is required to view attachments ]

[El Dorado County Board of Supervisors Agenda Item 11-1161](#)

[El Dorado County Grading, Erosion and Sediment Control Ordinance \(Chapter 15.14\)](#)

[El Dorado County Grading Design Manual](#)

# **EL DORADO COUNTY GRAND JURY 2013-2014**

## ***TOXIC POLLUTION SPREAD BY ILLEGAL GRADING ON DIAMOND DORADO***

Case Number GJ-13-16

### **REASON FOR REPORT**

A citizen complained that El Dorado County was ignoring continuing pollution into Webber Creek from the former Diamond Lime Plant site.

### **SUMMARY**

Two adjacent Assessor's parcels in Diamond Springs are located within the former Diamond Lime Plant site. They are also next to the present day Material Recovery Facility (MRF) on Throwita Way. The physical manifestations of the lime plant are long gone. However, the last vestige of the Diamond Lime Plant may be the lime waste that today continues to contaminate the property, surrounding area and adjacent waterways.

The property is currently under investigation by the California Department of Fish and Wildlife (CDFW), formerly the Department of Fish and Game, and the California Regional Water Quality Control Board. CDFW issued a citation with pending fines amounting to almost \$100,000 and was cooperating with the El Dorado County District Attorney who has since dismissed the underlying misdemeanor criminal case.

The owner has improperly and illegally graded the property without an El Dorado County grading permit in spite of a stop work order issued by the County Department of Transportation. In addition the grading was not done according to a conditionally approved grading and lime mitigation plan prepared by professional Engineers at the request of the owner.

The property is a portion of the proposed right of way for the County's Diamond Dorado Parkway. That part of the property has been offered to the County without charge for that purpose. The property is the entire site of the proposed Diamond Retail Center that will be adjacent to and front on the Parkway.

### **BACKGROUND**

The Diamond Lime Plant was a lime production plant with lime kilns and sludge settling ponds that began operation prior to 1935 and continued until at least 1977. It processed lime from a quarry 6 miles away that was transported to the processing plant on an overhead cable transport system. The lime was processed in kilns then shipped out on the railway that ran alongside the site.

Citizens using the El Dorado Trail, a bike/pedestrian path on the former railroad right-of-way at the North perimeter of the property, reported white milky water and dead mammals in two tributaries of Webber Creek to the CDFW. CDFW documented lime discharge from the property on March 17, 2011. Testing showed alkalinity up to pH 12, equivalent to ammonia or oven cleaner, on the property. A CDFW violation case was filed with the County District Attorney.

The proposed Diamond Dorado Parkway and commensurate utilities will traverse the northern property and the proposed adjacent Diamond Dorado Retail Center will partially occupy the remainder.

## METHODOLOGY

- A representative of the California Regional Water Quality Control Board was interviewed.
- A representative of the County Department of Transportation was interviewed.
- Representatives of the El Dorado County District Attorney's office were interviewed.
- The *BRADLEY ROAD PROPERTY LIME KILN WASTE MITIGATION PLAN REPORT for APNs 051-25-51-100 And 051-250-54-100 Bradley Road And Throwita Way, Diamond Springs, El Dorado County, California* Prepared by Holdrege & Kull, Consulting Engineers – Geologists, dated June 4, 2012 was reviewed.
- The *Diamond Dorado Retail Center Project Final Environmental Impact Report* (State Clearinghouse No. 2008012004) was reviewed.
- The *Diamond Springs Parkway Project Final Environmental Impact Report* (State Clearinghouse No. 2007122033) was reviewed.

## DISCUSSION

The California Department of Fish and Wildlife (CDFW) recommended that the property be stabilized and a corrective action plan developed. Two corrective action plans submitted by the property owner to CDFW were determined to be incomplete, inadequate or insufficient.

A third plan, also submitted by the property owner, the *BRADLEY ROAD PROPERTY LIME KILN WASTE MITIGATION PLAN REPORT for APNs 051-250-51-100 And 051-250-54-100 Bradley Road And Throwita Way, Diamond Springs, El Dorado County, California* (Waste Mitigation Plan) prepared by Civil Engineer Don Olsen of Holdrege and Kull, was submitted to CDFW. Its corrective action plan for the lime waste pollution to state waters, including a grading plan, was conditionally approved.

The Grand Jury learned that the Holdrege and Kull grading plan was also submitted to the El Dorado County Department of Transportation (DOT). It was not reviewed by DOT personnel because a plan review fee was never paid by the applicant and a grading permit was never issued. When grading commenced without a permit, DOT issued a stop work order. Despite the stop work order, grading continued.

The Grand Jury learned that when a stop work order is not complied with and/or improper or illegal grading activity continues after a stop work order, there are escalating actions that can be taken to gain compliance. Legal enforcement remedies can be criminal action by the County District Attorney and civil action by the County Counsel. Another possibility is delineated in the County Grading, Erosion, And Sediment Control Ordinance Article IV. Enforcement Section 15.14.410 Corrective work. It allows that "... the Director may order County workers or contractors to immediately enter private property to abate hazards to public health and safety ...". The Section also allows direct cost recovery including "... a lien on the property." However, the Grand Jury could not identify any instance where the provision of Section 15.14.410 had been invoked! ***Instead, the County took no action and let the improper and illegal grading continue.***

When grading approached completion, a CDFW inspection of the site revealed several unauthorized activities and CDFW violations including a required El Dorado County Grading Permit was not obtained.

Subsequently, CDFW issued a citation and referred it to the El Dorado County District Attorney. The District Attorney initially pursued prosecution of the CDFW violation but eventually dismissed the underlying misdemeanor criminal case after the Grand Jury inquired about the status of the case.

Examination of the property afterward revealed that the grading did not approach the provisions of the Holdrege and Kull grading plan. Cut-off walls were not installed. The property was graded and filled in places with between 7 and 15 feet of contaminated material spread from other parts of the property. It essentially dug up contaminated soil and used it to cover up the worst lime waste deposits without proper remediation or possible mediation.

The grading raised the grade of the property creating a *dam* effect that completely obstructed the previous drainage pattern from the MRF. A substantial storm water drainage system was installed by MRF on a County easement between the MRF and the graded property to alleviate the problem. The storm water system was installed with a County Permit. Ironically, the need for it was caused by grading ***without a permit despite a stop work order!***

The owners initiated a project to construct the Diamond Dorado Retail Center on the property. The retail center would front on the proposed County Diamond Dorado Parkway that would partly occupy part of the property. The owners took steps to give part of their property to the County at no cost for the Parkway.

## FINDINGS

1. The unpermitted grading spread toxic limestone waste over the site causing dangerously high levels of pH in surrounding tributaries.
2. Toxic limestone waste continues to flow into adjacent waterways. Nobody is doing anything to stop it. Not the owner, not the County and not the State.
3. The property along with several adjacent parcels have become the site of two important County projects: Diamond Dorado Parkway and Diamond Dorado Retail Center.
4. El Dorado County has executed and recorded two CONSENT TO MAKING OF IRREVOCABLE OFFER OF DEDICATION, where it appears the owners have offered part of the property to the County without charge for rights-of-way for a portion of the Parkway. The offer can be accepted by the County until 5/25/2025.
5. The County did not enforce the Grading Ordinance, Title 15.14 of the County Code. It is the law. The law was not enforced.
6. It would be completely irresponsible of the County to allow the Diamond Dorado Parkway project to proceed without ensuring that all environmental issues and mitigations have been resolved.
7. Section 15.14.410 of the Grading Ordinance is an extremely valuable tool to enforce proper grading of property. It should be used.
8. It is somewhat disquieting that enforcement compliance can be predicated by payment of fines and fees by the offending party, particularly when environmental concerns are paramount.

## RECOMMENDATIONS

1. The Grand Jury recommends that El Dorado County immediately review whether spending public monies for the planning, engineering or improvements for Diamond Dorado Projects is wise given environmental concerns.
2. The County should engage an environmental consultant to measure the impacts of existing grading upon dispersal of limestone waste in consideration of up to date reports and water samples from State agencies including the Regional Water Quality Control Board and the Department of Fish and Game.
3. The County should ensure that all environmental issues and mitigations have been resolved before continuing with the development of the Diamond Dorado Parkway and the Diamond Dorado Retail Center.
4. Property owners adjacent to the Project or in the vicinity of the Diamond Lime Plane should be advised of the existing contaminations.
5. Planning Services and DOT should explore using County Grading, Erosion, And Sediment Control Ordinance Section 15.14.410 to achieve prudent results.
6. The County should enforce the provisions of the Grading, Erosion, and Sediment Control Ordinance, Chapter 15.14 of the County Code.

## RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury, presiding judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This Report has been provided to the El Dorado County Board of Supervisors, Development Services Department and Department of Transportation.

The Presiding Judge of the El Dorado County Superior Court additionally requests that the responses be sent electronically as a “Word” file or “PDF” file to facilitate the economical and timely distribution of such responses. Please email responses to the El Dorado County Grand Jury at:

[courtadmin@eldoradocourt.org](mailto:courtadmin@eldoradocourt.org)

## ATTACHMENTS [ Adobe Reader is required to view attachments ]

DFG Lindeman Violation Notice

DFG Notice of Violation to District Attorney

# EL DORADO COUNTY GRAND JURY 2013-2014

## *COUNTY ACTIONS CREATE FLOODING, COUNTY NO HELP WITH REPAIR*

Case Number GJ-13-17

### REASON FOR REPORT

Two property owners adjacent to the Granada Heights subdivision in Cameron Park complained that each time there is substantial rain, their properties are heavily flooded and eroded. They assert the flooding is a result of: (1) installation of an apparent *speed bump* by the Granada Heights Homeowners Association (HOA) which actually diverts storm water runoff to a drainage swale that was not originally designed to handle it; and (2) enlargement of a side yard and alteration of the same drainage swale by a property owner uphill of the complainants that was approved by the HOA and the County. The alteration changed the swale, a rock lined ditch, into a concrete sidewalk that greatly reduced the storm water capacity while increasing its velocity.

### SUMMARY

The investigation revealed many incidents that ultimately contributed to the complaint. The complainants had every expectation that the County would assist in solving the significant drainage problems the County created when failing to thoroughly review either the original drainage design for Granada Heights or its alteration by the HOA and a property owner. To the complainants' surprise, and significant cost, the County denied any responsibility for the problem, putting the burden of correcting it on the property owners, despite the County's failure to correctly administer the County Code.

In reality, the County failed to protect neighboring property owners from the increased storm water flows by allowing them to happen and continued to deny relief assistance of any kind due to their flawed record keeping.

### BACKGROUND

*1990*

The revised Granada Heights subdivision was approved by the County.

*July 2002*

The HOA installed what appears to be a *speed bump* that acts as a diverter, redirecting storm water onto Granada Court and to a rock lined drainage easement not designed to handle the additional flow and then to a complainants' property.

*March 2004*

El Dorado County Department of Transportation (DOT) Maintenance Division cleared a culvert on Granada Court after a complaint of flooding, demonstrating that DOT accepted maintenance responsibility for that street.

*June 2005*

The Granada Heights HOA approved a property owner's plan to enlarge his side yard adjacent to a rock lined primary drainage swale. He extended his side yard into the drainage swale by constructing a retaining wall reducing the drainage swale to a 3 ft. concrete sidewalk with a 6" curb. This both reduced the drainage capacity and increased the velocity of flowing water.

*November 2005*

The property owner submitted and the County approved a plot plan for the retaining wall although it did not address drainage. The County review of the plan did not address drainage either.

*December 2005*

The complainants' properties were flooded and the newly installed retaining wall, with an incomplete curb, was undermined.

*January 2006*

A complainant notified DOT Maintenance of flooding and silt/erosion on their property. DOT maintenance reported that eroded silt and rocks from the incomplete concrete curb had clogged a storm pipe at the rear of the complainants' properties causing flooding.

*July 2006*

The County decided that the drainage problems were a civil matter that should be resolved between the property owners.

*December 2006*

DOT incorrectly determined that an unrelated property owner was responsible for the obstruction and demanded that the drainage ditch improperly installed on that property be reinstalled. This parcel owner hired an attorney and the County dropped its demand when it was determined that the drainage ditch never existed on this property.

*March 2007*

Subsequently, DOT demanded that the property owner who did alter the drainage ditch properly size a pipe he illegally placed on a neighbor's property. The Assessor's Parcel Number referred to in the DOT letter could not be found to exist.

*February 2008*

The complainants estimated the costs for repairs to and mitigation of the drainage problem at more than \$25,000.

*August 2008*

The County informed the complainant they could not find a drainage plan for Granada Heights.

*2009*

The complainants sued the HOA. The property owner and management company subsequently settled.

*December 13, 2013*

The County Community Development Agency, Transportation Division, stated in a letter to the complainant that "they (the property owner that enlarged his front yard and altered the drainage swale) may have miscalculated the actual velocity of the runoff in the concrete swale and the infrastructure necessary to safely move the run off through the property", and that "additional

calculations and modifications to the concrete swale“ might be necessary to return the flow to pre-concrete velocity.

The County also suggested an existing pipe system in an El Dorado Irrigation District easement at complainants' rear yards may also be inadequate. The letter goes on to say that it is the complainants' responsibility to discuss the need for any change with neighbors.

## ACTIONS

- The complainants were interviewed.
- Representatives of the County Building Department, Department of Transportation and Air Quality Management District were interviewed.
- County records were reviewed.
- The County FINAL Revised Grading Ordinance, 2-5-07 (Ordinance #4716) Revised 8-10-10 (Ordinance #4949) was reviewed.

## DISCUSSION

Although there were neighborhood and civil engineering concerns about the drainage of the revised subdivision of Granada Heights, the County approved the project in 1990. The County's analysis of internal and external drainage was flawed; flooding of the subdivision and adjacent properties has since occurred resulting in damages to the complainants.

From 2004 to 2013, the County has been aware of, has been in communication with, and acted upon complaints from numerous parties regarding the flooding of these properties.

The HOA of Granada Heights subdivision installed a *speed bump* to divert water from their development to a drainage swale. The County subsequently made matters worse by rubber stamping a private property owner's desire to make his yard bigger and not analyzing the impacts of alterations to the drainage. Investigations by the County indicate that a critical drainage ditch that could have alleviated run off to a nearby creek ***did not, in fact, actually exist.***

The mantra the Grand Jury has heard repeatedly from County officials that it is the *will* of the County Board of Supervisors (BOS) to be customer friendly. Unfortunately, in this case, their customer friendly attitude coupled with lack of proper plan checking and application of county ordinances, caused collateral damage.

The complainants had every right to believe and expect that the County would assist in solving the significant drainage problems created when the County failed to thoroughly review either the original drainage design for Granada Heights or its alteration by the HOA and a property owner. To their surprise, and significant cost, the County denied any responsibility for the problem, putting the burden of correcting it on the property owners, despite the County's failure to do its duty and administer the County Code causing their damage originally.

## FINDINGS

1. The complainants' properties are flooded from runoff when there is substantial rain; causing erosion on their properties.
2. The internal and external drainage analysis of the Granada Heights revised subdivision was flawed. The County should not have approved this revised subdivision.
3. Deficiencies in County record keeping prevented County staff from locating the drainage plan for Granada Heights. Staff relied on an *as built* subdivision plan showing a drainage swale that, in fact, did not exist, leading to a claim against the wrong property owner. That property owner was forced to hire an attorney to defend against the mistaken claim.
4. The County illegally permitted the installation of a retaining wall and alteration of a drainage swale without requiring the analysis and plans required by its own regulations.
5. The County has admitted that the velocity of the water in the altered drainage swale and improper sizing of a pipe in an EID easement have contributed to the drainage, flooding, and erosion problems.
6. The County has the authority to remediate the harm done to the complainants and others similarly affected. The El Dorado County FINAL Revised Grading Ordinance, 2-5-07, Section 15.14.410, Corrective work, subsection A., **Abatement of unlawfully created conditions** allows the director to

... order County workers or contractors to immediately enter private property to conduct work necessary to abate hazards to public health and safety such as: a. The alteration of drainage patterns that has caused, or has the potential to cause, flooding of or siltation upon any downstream property...

It further states

2. Cost recovery: Whenever the County expends any funds or takes any action, the County shall bill the landowner, lessee or licensee for the costs indicated herein. Pursuant to the requirements of Government Code Section 54988, the costs shall become a lien on the property, or shall be recoverable from the property owner by other legal means.

## RECOMMENDATIONS

1. The County should analyze, or cause to have analyzed, the existing drainage of Granada Court, Granada Heights and surrounding properties and any drainage methods and devices within public right-of-way and private and public easements to determine their adequacy to properly convey storm runoff sufficiently to avert flooding and erosion of private property. Upon completion of such analysis, the county should install corrective measures in the public right of way and private and public easements to correct any deficiencies.
2. The Director of Development Services should require County employees to apply the requirements of the Grading Ordinance.
3. Prior to issuance of any permit, the County should thoroughly analyze the impacts on drainage by requiring the applicant to adhere to the specific requirements of the Grading Ordinance.
4. If it is determined that application of the Grading Ordinance in some cases is particularly onerous to some property owners, the Director of Development Services should study such cases and, with input from stakeholders, recommend appropriate exemptions.
5. The County should more aggressively implement the provisions of the Grading Ordinance cited above to restore properties to the condition existing before illegal grading and construction occurred and bill the landowner, lessee or licensee for costs.

## RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury, presiding judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This Report has been provided to the El Dorado County Board of Supervisors, Development Services Department and Department of Transportation.

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# EL DORADO COUNTY GRAND JURY, 2013-2014

## *EL DORADO COUNTY FAILS TO ENFORCE ITS GRADING, EROSION AND SEDIMENT CONTROL ORDINANCE*

Case Number GJ-13/14-18

### REASON FOR REPORT

The Grand Jury received a number of complaints involving improper grading of private property. Three specific complaints were investigated and addressed in three separate reports. One involves grading of a rural property, another involves grading of a suburban property and the third is grading by a commercial property owner. In each instance, persons other than the property owner suffered damage as a result of the county's failure to ensure compliance with its Grading Ordinance. The investigations of those cases caused the Grand Jury to question if there was a pattern and practice of failing to comply with the County Grading Ordinance.

The Grand Jury found that it did.

### BACKGROUND

#### *The Ordinance*

The El Dorado County Grading, Erosion, and Sediment Control Ordinance (hereinafter "the Ordinance")

...for the purpose of regulating grading within the unincorporated area of El Dorado County to safeguard life, limb, health, property and public welfare; to avoid pollution of watercourses; and to ensure that the intended use of a graded site is consistent with the El Dorado County General Plan, any Specific Plans adopted thereto, the adopted Storm Water Management Plan, California Fire Safe Standards and applicable El Dorado County ordinances including the Zoning Ordinance and the California Building Code. (Section 15.14.110)

"This ordinance *shall* be implemented and enforced *by the County...*" (emphasis added)

A grading permit is required for all grading activities in the unincorporated area of El Dorado County unless a specific exemption applies. (Sections 15.14.130 and 15.14.140). An exemption did not apply to any of the specific instances investigated by the Grand Jury.

The Ordinance requires permit applications to include specific informational items. (Section 15.14.200)

Fees collected when a permit is issued are used to fund enforcement of the Ordinance. Violation fees of twice the regular permit fees are required whenever grading is done in violation of the Ordinance or without an approved permit. The language of the Ordinance is **not** discretionary; It **mandates** that this violation fee be charged. (Section 15.14.230 E)

It prohibits grading activities that cause or have the potential to result in itemized hazards including a threat to neighboring property or degradation of water quality. (Section 15.14.290)

The county is authorized to enter private property and conduct work necessary to abate and repair hazards from unlawfully created conditions. The County may conduct such work either using its own

employees or through a licensed contractor. The County is required to bill the property owner for costs incurred and is authorized to recover those costs through a lien on the property and other legal means. (Section 15.14.410)

### ***Enforcement of the Ordinance***

Review of the permit application and subsequent inspection of the grading site only happens after permit fees are paid. Otherwise, no action is taken. When work is initiated without a valid permit a stop work order may be issued. If work is completed prior to issuance of a stop work order or if work continues without a valid permit, there is no inspection of the work done. Thus, someone who wants to perform work not authorized by county ordinances could well decide to not seek a permit in order to get away with that unauthorized work.

County employees interviewed were aware of the legal authority to charge violation fees but not that those fees were mandatory rather than discretionary. Further, violation fees were rarely charged and suggested that it would discourage the public from seeking a permit and encourage performing work without proper permits.

County employees were unaware of the County's authority to conduct necessary remedial work at the property owner's expense and knew of no instance when this action was taken.

### ***Why is the Grading Ordinance Not Enforced?***

Grading in violation of the Grading Ordinance resulted in substantial harm to property owners adjacent to or affected by improper grading in each of the cases investigated by the Grand Jury. The Grading Ordinance gives the Department of Transportation significant authority to correct improper grading. This authority could be a very effective tool for protecting other affected property owners if it were used, but it is not .... Why not?

Both County staff and officials reported that they perceived it to be the *will of the Board of Supervisors* that the Ordinance not be enforced. They stated that El Dorado is a *property rights county*; the will of the Board of Supervisors is that property owners not be burdened by strict compliance with requirements perceived to be onerous for some property owners. Several witnesses reported they believed the Ordinance imposed excessive burdens on property owners maintaining rural access roads

The public appears to understand that the Ordinance is not enforced. Neither of the contractors who performed illegal grading in Report No. 13-15 or 13-16 felt required to obtain a permit for the grading they performed. In Report No. 13-16 the Contractor appears to have understood that if he failed to pay the fee for a grading permit no action would be taken to enforce the terms of the permit.

The Ordinance is quite specific "...to safeguard life, limb, health, property and public welfare; to avoid pollution of watercourses..." The Grading Ordinance of the County of El Dorado is Chapter 15.14 of the County Code; it is the law of El Dorado County. Failure to enforce the Ordinance is failure to enforce the law; that failure benefits property owners who act unlawfully while denying the law's specific protections to others. It leads to a perception of corruption on the part of County officials and general disrespect for County government.

## ACTIONS

- The Grand Jury reviewed the El Dorado County Grading, Erosion and Sediment Control Ordinance.
- The Grand Jury interviewed private parties who complained to having been adversely affected by the County's failure to enforce the Ordinance.
- The Grand Jury interviewed County employees responsible for implementing and enforcing the Ordinance.

## FINDINGS

1. When grading work is done in El Dorado County and no permit is obtained and no permit fee paid, and the county is made aware of the work being done before the work is complete, the county will issue a stop work order.
2. When work improperly continues after issuance of a stop work order or if work is completed before a stop work order is issued, no enforcement action is taken.
3. Only payment of a permit fee triggers inspection of grading work performed.
4. Grading work performed where no permit fee is paid is not inspected.
5. El Dorado County does not enforce its Grading, Erosion and Sediment Control Ordinance.
6. The County's failure to enforce its Grading, Erosion and Sediment Control Ordinance encourages illegal grading to the detriment of other property owners and residents.

## RECOMMENDATIONS

1. The Board of Supervisors should review the Grading, Erosion and Sediment Control Ordinance and determine whether the Ordinance imposes overly burdensome requirements for rural access roads.
2. If the Board of Supervisors determines the requirements for grading of rural access roads are overly burdensome, it should amend the Ordinance to define appropriate requirements for the grading of those roads.
3. Whether or not the Ordinance is amended, the Grading, Erosion and Sediment Control Ordinance should be enforced.

## RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury, presiding judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This Report has been provided to the El Dorado County Board of Supervisors, Development Services Department and Department of Transportation.

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# EL DORADO COUNTY GRAND JURY 2013-2014

## *HOW HAS PUBLIC SAFETY REALIGNMENT (AB 109) AFFECTED EL DORADO COUNTY?*

Case Number GJ-13-19

### REASON FOR REPORT

The California Public Safety Realignment Act (referred to commonly as “AB 109”) has had financial and social impact upon El Dorado County and will continue to do so in ways both known and unknown. During the course of the Grand Jury mandatory county jail inspections there were concerns raised which expanded the investigation to look into the function and operation of other county departments that are impacted.

### DISCUSSION

The California Public Safety Realignment Act of 2011 (AB 109) resulted from a Federal Court Order to reduce the State’s overcrowded prison system. This legislation intended to reduce the State prison population by moving lower-level offenders to County jails. Counties became financially responsible for incarceration, parole and parole revocation including all ancillary services related to long-term incarceration.

Pertinent issues related to the effects of realignment were discussed with El Dorado County staff at both jails in Placerville and South Lake Tahoe, Probation Department, Placerville Police Department, Sheriff’s Department and Health and Human Services Department.

The most immediate issues among the staff was the number of additional inmates needing incarceration, parole and probation in a short period of time and the services attendant to them such as higher case loads and medical care. Additional issues are:

- Inmate length of stay can be dramatically longer; as much as 15 or 20 years, possibly more.
- The average age of the inmate population has increased, impacting acute and long-term medical care needs.
- The *sophistication* (i.e. incarcerated for more violent crimes) of inmates has grown and gang affiliation has increased, both requiring more attention to cell assignment and behavior in the general population.
- Jail staff safety training has not kept pace with the increase in more violent jail populations.

The County has established some promising programs using realignment funds.

- A new Community Corrections Center on Durock Road was recently opened providing a collection of services in one location. The Probation Department has oversight along with the Office of Education and Mental Health. Having just recently opened, there isn’t enough information to evaluate its long term effectiveness.

- Several new positions have been established (4 Health Education Coordinators, a Public Health Nurse, 1.5 HS Technicians and 1 Mental Health Tech). Physicians, Mental Health Therapists and Pharmacy Services as contract service providers use the bulk of this funding. In an effort to provide seamless service to those being release from jail, two new positions assess inmate needs while still incarcerated to provide those services upon release.
- The Community Corrections Partnership (CCP) Board which has oversight responsibility continues to develop data for effective allocation and expenditure of realignment funds.
- Although HHS has reliable hard data to justify its funding, both local police departments need better data collection. Only by chance encounter are Police departments able to determine if an individual has been a recipient of AB 109 funds.

All Counties receive funding from the State, including El Dorado. The State Corrections & Rehabilitation website reports interesting information, paraphrased:

*A dedicated and permanent revenue stream has been provided by AB 109. Voter passed Proposition 30 created a constitutional amendment prohibiting the Legislature from reducing or removing realignment funding to the counties. The allocation of initial funding to individual counties is temporary. A one-time allocation for 2011-2012 came at the explicit request of the counties, who wanted to be able to assess whether the initial distribution of funds reflects the number offenders they receive.*

*\$400 million was provided to the counties in 2011-2012, \$850 million in 2012-2013 and more than \$1 billion in 2013-2014. In addition, a series of trailer bills, AB 111, AB 94, AB 118, SB 89 and SB 87, were signed in 2011 to secure sufficient funding for counties. Moreover, a permanent allocation of the ongoing revenues is expected to take place in 2014-2015.*

The dissemination of realignment funding within El Dorado County is managed by the Community Corrections Partnership (CCP) Board comprised of representatives from various departments involved including the Chief Administrative Office (CAO), Sheriff, Police Chiefs, Superior Court, District Attorney, Probation, and Director, Health and Human Services (HHS).

The upcoming 2014-2015 funding for the El Dorado County is \$4,100,000. The budget, by department:

Health & Human Services	\$1,307,000	32%
Probation	1,140,000	28%
Sheriff	1,138,000	28%
EDC Office of Education	340,000	8%
Chief Administrative Office	125,000	3%
PV & SLT Police Departments	50,000	1%

Until now, the primary issue for El Dorado County has been deciding how to effectively use the funds received from the State. The challenge will be to devise a plan for the future based upon the best perception of future needs, the reality of the past and the uncertainty of future funding. The CCP Board has been working on a 2 year budget projection. Current spending reserves now exist. However, in 3 years some projections show it may need general fund monies.

Despite the State's expectation that a permanent allocation of ongoing revenue for funding will take place for 2014-2015, it is uncertain that it will continue at current levels. Coupled with uncertainties of incarceration costs like medical care, it is extremely important that prudent planning takes place.

The need for Transitional Housing is identified by HHS. More than half of those released from county services have no place to live. Adequate transitional housing **is necessary** to decrease recidivism. It's tougher on rural counties where there are fewer service providers. Transitional Housing is greatly needed in El Dorado County and would be a next logical step in services, now that there is a new Community Corrections Center.

Safety training to provide more effective Staff response to prisoners and paroles of a more violent jail population would be an area needing review and revision.

**NO RESPONSE IS REQUIRED.**

# EL DORADO COUNTY GRAND JURY 2013-2014

## *THE EL DORADO COUNTY CHARTER: A PRESCRIPTION FOR DYSFUNCTION*

Case Number GJ-13-20

### REASON FOR REPORT

Early in its term, the Grand Jury began to see a thread of dysfunction running through El Dorado County government. The Grand Jury heard repeated testimony of three practices, which would seriously jeopardize efficiency in any organization and are especially troublesome in an organization with the complexity, varied duties and size of El Dorado County government:

1. Elected officials can refuse to cooperate with both the Board of Supervisors and the County's Chief Administrative Officer.
2. Department heads both elected and appointed, went around the CAO directly to the Board of Supervisors in support of their own positions to the detriment of the County as a whole.
3. Individual members of the Board of Supervisors interfered in the day to day administration of the County.

These practices cost the County significant dollar amounts in ongoing inefficiency as well as in failed programs and purchases. The Grand Jury soon realized that these failures stem not just from the individuals who hold these positions but are supported and encouraged by the County Charter.

The Board of Supervisors is **the** governing body for the county, is responsible for defining the vision for the county and implementing that vision through the budget, ordinances and policies. However, provisions of the County Charter allow other elected officials to distract the Board's attention while obstructing their efforts.

*These observations lead the Grand Jury to conclude:*

- The proliferation of elected officials in El Dorado County compromises the performance of the CAO and the Board of Supervisors. *The Charter should be amended to provide for the election of only those officials whose election is mandated by the California Constitution, the Sheriff, District Attorney and Assessor; and*
- Confusion between the roles of the Board of Supervisors and the CAO has hindered the ability of the Board of Supervisors to create and implement its vision for the future of El Dorado County. *The Charter should be amended to clearly provide (1) that the Board of Supervisors is the governing board of the County responsible for all policy decisions, and (2) the CAO serves at the Board's pleasure and is responsible for implementing the Board's policies.*

These observations and recommendations are fully set out in this report.

## ACTIONS

- The Grand Jury began its term by meeting with each member of the Board of Supervisors, a former member of the Board of Supervisors, the Chief Administrative Officer and each of the elected department heads individually in informal sessions during which the official was asked to share his or her insight into the challenges facing El Dorado County. Most of these officials were forthcoming and shared valuable insights gained from years of experience in the county.
- At the same time, the Grand Jury reviewed a large number of complaints from citizens and citizen advocacy groups alleging numerous shortcomings and failures by county officials. Numerous officials, staff and county citizens were also interviewed.
- The Grand Jury reviewed the El Dorado County Charter.
- The Grand Jury reviewed previous year's Grand Jury reports concerning the same or related topics and findings.
- The Grand Jury researched organizational practices in other California counties and interviewed a representative sampling of county administrators.
- The Grand Jury reviewed the findings of an outside management consulting firm retained by the County to survey and examine El Dorado County overall workplace and culture.

## THE EL DORADO COUNTY CHARTER

The California Constitution authorizes but does not require a county to adopt a charter by majority vote of its electors. The Constitution requires that a charter provide for a governing body of 5 or more members, an elected sheriff, an elected district attorney and an elected assessor as well as other officers who may be either elected or appointed.

El Dorado County adopted a Charter in 1994. That Charter provides for a 5 member Board of Supervisors and the three elected officials required by the state Constitution. However, the El Dorado County Charter requires that four additional officials be elected: the Auditor/Controller, Recorder/Clerk, Surveyor and Treasurer/Tax Collector.

The Charter provides term limits for members of the Board of Supervisors but no term limits for the other elected officials. A member of the Board of Supervisors is termed out after eight years while the current Treasurer/Tax Collector has served since 1985 and the Auditor/Controller and Recorder have each served for almost twenty years. Finally, although not a provision of the Charter, the members of the Board of Supervisors are paid as less-than-full time employees with salaries less than half that of some other elected officials.

The Charter requires the Board of Supervisors to hire a Chief Administrative Officer, who serves at the Board's pleasure, to be the Chief Executive Officer for the County. *However, the Charter includes conflicting provisions which seem to assign responsibilities necessary to an effective CEO to the Board itself.*

## ELECTED OFFICIALS CAN REFUSE TO COOPERATE WITH BOTH THE BOARD OF SUPERVISORS AND THE COUNTY'S CHIEF ADMINISTRATIVE OFFICER

The proliferation of elected officials in El Dorado County pose a particular problem for the Board of Supervisors and the County.

Elected officials may feel no allegiance to the policies set by the Board. Their longevity in office and higher salaries may remove any motivation to cooperate with the Board. Indeed, it has been alleged that the Auditor/Controller has deliberately obstructed Board initiatives in order to cast himself as the white knight crusading against the failures by others.

These elected officials assert they are elected by and their only duty is to the electors. Certainly every elected official has an obligation to serve the electorate. However, the electorate has no valid basis for evaluating the performance of officials performing the specialized and sometimes esoteric duties of these offices. How is the electorate to know whether the Controller is rooting out fraud when he holds up a claim from a vendor or whether he is deliberately trying to discredit the department for whom the vendor worked. An elected official may seek publicity for himself by challenging a decision made by the Board or CAO presenting himself as acting to protect the best interests of the county when in fact his interest is his reelection.

Recently the imbalance and potential for abuse of power by elected officials has been brought to the public's attention following the County's Workplace Climate Assessment Survey and ensuing significant criticism of the Auditor/Controller. Whether or not the criticisms directed at the Auditor/Controller are true, they demonstrate clearly the potential for abuse that arises from the structural imbalance between the Board of Supervisors, Chief Administrative Officer and elected officials.

Although the Grand Jury did not investigate the allegations made against the Auditor/Controller following the County's Workplace Climate Assessment, the Grand Jury did receive substantial testimony from a number of witnesses in several different investigations reporting similar experiences: that the Auditor/Controller refuses to cooperate with the CAO in implementing the Board of Supervisors' initiatives; that he refuses to engage in constructive problem solving; and that his behavior results in minor issues or questions escalating into serious disputes. Specific allegations made were that the Auditor/Controller will not address problems by telephone, forbids his employees to speak to both staff and department heads, refuses to respond at all to any communication from certain employees and officials, that he is defamatory, disrespectful and disparaging.

DEPARTMENT HEADS, BOTH ELECTED AND APPOINTED, WENT AROUND THE CAO DIRECTLY TO THE BOARD OF SUPERVISORS IN SUPPORT OF THEIR OWN POSITIONS TO THE DETRIMENT OF THE COUNTY AS A WHOLE.

The Annual Budget adopted each year by the Board of Supervisors is the most important policy decision they will make that year. How will the County spend its money? Which programs will be given priority over what other programs? Where will additional dollars be spent? Where will staff and services be added? Where will these be reduced? The Budget reflects the Board's vision more than any other document.

The Chief Administrative Officer's responsibility for implementing the policies and accomplishing the goals established by the Board include responsibility to recommend and administer the budget. To do this, she must make difficult recommendations balancing one public need against another. Her ability to serve the Board by implementing its decisions is undermined when individual Board members allow themselves to be lobbied for additional staff and budget. But it is not only the CAO's work that is undermined, the work of the Board is undermined as well. When a department head, elected or appointed, tells the Board it should ignore the Budget and augment that department's programs, the Board is being told that its policies are meaningless and its role as policy maker is meaningless.

When Board members believe their role as policy maker is meaningless because policies can be changed on whim or not followed at all they may step out of their role of policy maker and step into the role properly assigned to the CAO.

**INSTEAD OF ACTING AS A POLICY MAKING BODY, INDIVIDUAL MEMBERS OF THE BOARD OF SUPERVISORS INTERFERED IN THE DAY TO DAY ADMINISTRATION OF THE COUNTY**

The Board of Supervisors is the governing body of the county. Like the board of a corporation, the role of the Board of Supervisors is that of policy maker for the county. The Board should have a vision for the future of the County and guide the County toward realization of that vision. The Board is required to hire a Chief Administrative Officer who serves at the Board's pleasure and is responsible for implementing the Board's vision with the help of her senior staff.

This management structure is adhered to by most large organizations, both corporate and public. It is reflected in the Charter which requires that direction, recommendation and instructions to employees, department heads and officers be by formal board action. The CAO is then responsible to insure that those formal actions are implemented by staff.

The County is responsible for a multitude of functions ranging from zoning and development to providing foster care for children to public health and safety and myriad more. It has a budget of almost \$400 million and employs 1,850 people. In an organization of any size, but especially in an organization of this size and complexity, *failure to have clearly defined roles and responsibilities hinders communication and efficiency*. Board members cannot know the needs of the day to day operations of County administration. Any direction they give to staff is given without knowledge of the full impact of that direction. Staff are confused about the role of their immediate supervisor and department head. They do not know to whom to go with their own questions. Confusion reigns and morale suffers. Unfortunately some Board members do not understand this simple management principle and believe it is acceptable for them to give direction and criticism directly to staff.

Instances reported to the Grand Jury include a former supervisor sitting with a clerical employee and directing the paper flow on her desk, a department head refusing to reveal a professional staff analysis to the Board apparently for fear the Board would not like the analysis, a supervisor telling a constituent he would “give a kick in the ass” to an employee about whom the constituent was complaining.

In El Dorado County this had led to a general belief among staff that they must be sensitive to the unspoken, unwritten and uncodified “will of the Board.” They are afraid if they do not follow that unspoken will they will suffer consequences. They are afraid to follow the direction of the Board as reflected in its duly adopted ordinances and policies if they believe it is inconsistent with that enigmatic will. They are reluctant to take any responsibility, delay work within their areas of expertise rather than move forward and fail to share their professional analysis with the Board for fear of running afoul of some shrouded Board will. The Grand Jury repeatedly heard concern that on any given Tuesday department heads could be fired without notice.

The Board’s interference with day to day administration hinders the CAO’s ability to recruit and retain the highly qualified staff necessary to implement the Board’s vision for the County and renders the Board unable to accomplish its critical goals.

Ambiguity in the Charter which defines the CAO as the Chief Executive Officer for the County but includes among the Board’s duties those appropriately belonging to the CEO. The Charter should be amended to clearly define an effective management structure.

## FINDINGS

1. The Board of Supervisors is the policy making body for El Dorado County.
2. The proliferation of elected officials in El Dorado County compromises the performance of both the CAO and the Board of Supervisors itself resulting in ongoing inefficiency, loss of employee morale and failed programs and purchases.
3. When individual members of the Board of Supervisors focus on the day-to-day administration of County functions they are unable to focus on necessary long range planning.
4. Failure of the members of the Board of Supervisors to focus on their responsibility for the County’s vision and major policies brings disrespect for those policies and confusion for the staff and public.
5. Involvement by individual members of the Board of Supervisors in the day-to-day administration of County functions results in chaos, confusion, and poor morale among employees.
6. When non-elected department heads believe they report to the members of the Board of Supervisors and not to the Chief Administrative Officer, the ability of the CAO to perform the duties assigned to her is compromised and inefficiency is multiplied.

## RECOMMENDATIONS

1. The Charter should be amended to provide for the election of only those officials mandated by the California Constitution.
2. The Charter should be amended to clearly define and eliminate any ambiguity in the delineation of functions between the Board of Supervisors and the Chief Administrative Officer. The Board of Supervisors is the governing board of the County with responsibility for all policy decisions including adopting the budget for the County. The Chief Administrative Officer serves at the pleasure of the Board and is responsible for implementing the Board's policies. All county employees should be hired by and report to the CAO.

**ATTACHMENT** [ Adobe Reader is required to view attachment ]

### **Draft of the recommended changes to the Charter**

## RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury, presiding judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This Report has been provided to the Board of Supervisors.

The Presiding Judge of the El Dorado County Superior Court additionally requests that the responses be sent electronically as a "Word" file or "PDF" file to facilitate the economical and timely distribution of such responses. Please email responses to the El Dorado County Grand Jury at:

[courtadmin@eldoradocourt.org](mailto:courtadmin@eldoradocourt.org)